



## TCEQ REGULATORY GUIDANCE

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Program Support and Environmental Assistance Division  
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# Buying or Selling Property with Petroleum Storage Tanks

This is *module a* of the PST Super Guide, a comprehensive guide to issues relating to petroleum storage tanks (PSTs). This super guide provides an overview of laws and regulations for PSTs and can be used as an aid in minimizing potential risks. The guide does not replace laws and regulations which take precedence over any information in this publication.

## Who should use this guide?

Underground storage tank (UST) owners should use *module a* to understand the rules and procedures when a property with PSTs is bought or sold. UST owners and operators should note the following:

- You, the owner or operator of a PST, are responsible for ensuring compliance with all *applicable* laws and regulations.
- If your PST system is in Medina, Bexar, Comal, Kinney, Uvalde, Hays, Travis, or Williamson County, additional requirements related to protecting the Edwards or the Trinity Aquifer may apply ([Title 30, Texas Administrative Code \[30 TAC\]](#),<sup>1</sup> Chapters 213 and 214).
- In addition to TCEQ rules, local governments and other state and federal agencies may have rules that apply.

For more compliance information, contact Small Business and Local Government Assistance at 800-447-2827 or [TexasEnviroHelp@tceq.texas.gov](mailto:TexasEnviroHelp@tceq.texas.gov).

## What should I do before I buy a gas station or property with existing PSTs?

Buying a gas station or property with PSTs carries major responsibilities. You must be prepared to manage significant regulatory and recordkeeping requirements. Before making a purchase, think about the answers to these important questions:

1. Is the PST system in compliance with all technical requirements?
2. Is there contamination on the property (either from one or more PST systems or from other sources, including historical or off-site sources)? If so, do you have the financial resources for clean-up (i.e., assessment, remediation, and monitoring)?

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1. [www.tceq.texas.gov/goto/view-30tac](http://www.tceq.texas.gov/goto/view-30tac)

3. If you do not plan to use the PST, do you have the available resources to properly remove the tank(s) from service?

You will need as much information as possible from the seller to demonstrate technical compliance with applicable TCEQ rules. Request all existing records associated with the PST system, including:

- installation documentation
- owner's manuals
- compliance documentation
- removal documentation (if applicable)

Installation records and documentation of compliance can be very useful and should be acquired if possible. It is essential for you, as a prospective property owner, to determine if the PST complies with the TCEQ rules. Verify any claims made by the seller using these records. If the seller cannot provide records, you may have to re-create them or perform additional tests and actions to keep the PST system in compliance. This information must be adequate to satisfy the requirements of a TCEQ investigation.

An environmental study called a *Phase I environmental site assessment* (Phase I ESA) is commonly conducted prior to the transfer of ownership of commercial property. This assessment is used to find potential environmental contamination from on-site and adjacent properties. Additionally, a *Phase II environmental site assessment* (Phase II ESA) is conducted to determine if there is contamination at the site. A *Phase II ESA* includes soil and groundwater samples. Although the *Phase I and II ESAs* are important tools to document existing contamination at the site, they usually do not address historical design, installation, upgrade, and day-to-day operational records.

Underground storage tanks (USTs) may have been installed and registered at the property at one time but were permanently removed from service. If the tanks have been permanently removed from service, request a copy of the [Release Determination Report](#)<sup>2</sup> (TCEQ-00621) or other report documenting the removal of the tank system and any sampling that may have been done.

If a UST is permanently removed from service or is an inactive leaking petroleum storage tank (LPST) site, TCEQ will issue a “no further action” letter to the seller showing that the site needs no further study. If the seller does not have the letter, contact the TCEQ Remediation Division for a copy of the records at 512-239-2200 or [PSTRPR@tceq.texas.gov](mailto:PSTRPR@tceq.texas.gov).

Note: A “no further action” letter may not be available for USTs removed before 1995.

## How can I get information about PSTs from TCEQ?

Use the resources in this list to research and find information about properties with PSTs.

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2. [www.tceq.texas.gov/downloads/remediation/pst/responsible-party/00621.pdf](http://www.tceq.texas.gov/downloads/remediation/pst/responsible-party/00621.pdf)

- The TCEQ [Central Registry Database](#)<sup>3</sup> can tell you whether a PST facility is registered with TCEQ and provides information submitted by the owner, or a representative of the owner, about the PST system. However, records from the database do not replace information from historical documents, such as original installation records. The database may also show whether the facility is, or ever was, registered as an LPST site.
- The [Petroleum Storage Tank \(PST\) Records and Datasets](#)<sup>4</sup> webpage has downloadable files, including a statewide listing of LPST sites and PST facility data.
- The [Compliance History Database](#)<sup>5</sup> can tell you the compliance history rating for the facility. State rules require TCEQ to maintain and publish compliance histories for many of the companies, individuals, agencies, and other entities we regulate. Histories become a rating of a customer’s “distance from compliance.” A buyer inherits the compliance history rating of the facility they purchase. Poor ratings can cause denial of permits, stricter regulations, and higher penalties.
- Check to see if there is a [pending enforcement action](#)<sup>6</sup> against the seller of the PST system on the property.
- Submit a [public information request](#)<sup>7</sup> using the online form, email, fax, or mail to obtain documents, pending applications, ongoing compliance or enforcement actions, or other records.
- For questions about PST registrations, contact the PST Registration Team at 512-239-2160 or [PSTREG@tceq.texas.gov](mailto:PSTREG@tceq.texas.gov).
- For more information on cleanup requirements, contact the Remediation Division at 512-239-2200 or [PSTRPR@tceq.texas.gov](mailto:PSTRPR@tceq.texas.gov).
- For information on UST system requirements, contact Office of Compliance and Enforcement at [PSTTECH@tceq.texas.gov](mailto:PSTTECH@tceq.texas.gov).

## What should I consider if there is contamination?

TCEQ does not prevent the sale of properties with LPSTs. All parties involved in the sale of property with an LPST should be aware of the cleanup requirements and potential costs.

Parties may choose to negotiate the terms of any required cleanup by establishing a letter of credit or negotiating the price. However, TCEQ will not be bound by any agreement between the parties, and a buyer of an LPST site is not eligible for the [Innocent Owner/Operator Program](#).<sup>8</sup>

All interested parties may consider hiring a qualified environmental consultant or an attorney to evaluate existing information.

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3. [www.tceq.texas.gov/permitting/central\\_registry](http://www.tceq.texas.gov/permitting/central_registry)

4. [www.tceq.texas.gov/agency/data/lookup-data/pst-datasets-records.html](http://www.tceq.texas.gov/agency/data/lookup-data/pst-datasets-records.html)

5. [www.tceq.texas.gov/compliance/enforcement/compliance-history/search.html](http://www.tceq.texas.gov/compliance/enforcement/compliance-history/search.html)

6. [www.tceq.texas.gov/compliance/enforcement/enforcement-reports/pending-enforcement-actions](http://www.tceq.texas.gov/compliance/enforcement/enforcement-reports/pending-enforcement-actions)

7. [www.tceq.texas.gov/agency/data/records-services/reqinfo.html](http://www.tceq.texas.gov/agency/data/records-services/reqinfo.html)

8. [www.tceq.texas.gov/remediation/iop/iop.html](http://www.tceq.texas.gov/remediation/iop/iop.html)

## What are my options regarding existing UST systems?

If USTs remain in the ground at the time of the sale of real property, they are considered part of the property and are transferred with it, unless the seller specifically keeps ownership of them. The buyer is responsible for keeping (or making) the tanks compliant with applicable rules.

All UST systems must be kept in compliance with applicable TCEQ rules, regardless of use. If you are going to use a UST system, it must comply with all technical and administrative requirements, including:

- release detection
- corrosion protection
- spill and overfill prevention equipment
- financial assurance
- registration and self-certification
- operator training
- recordkeeping
- any other requirements that apply (such as Stage I Vapor Recovery)

If you are not going to use a UST system, there are two options for removal from service—temporary removal<sup>9</sup> and permanent removal.<sup>10</sup> Temporarily removing USTs from service allows you to maintain the tanks with modified requirements and with the option to return them to service later. See our [Temporarily Removing PSTs from Service](#)<sup>11</sup> (RG-475l) guidance for more information.

Permanently removing USTs from service relieves you of responsibility and can be done through one of three methods:

1. removal from the ground,
2. abandonment in place (emptied of product and filled with an inert material such as sand, cement, etc.), or
3. permanent change in service (storage of non-regulated substances).

See our [Permanently Removing Petroleum Storage Tanks from Service](#)<sup>12</sup> (RG-475m) guidance for more information.

Regardless of the option you choose, the work needs to be performed by a TCEQ-licensed UST contractor, and a comprehensive site assessment must be conducted to find out whether a release occurred from any part of the UST systems.

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9. See 30 TAC Section 334.54.

10. See 30 TAC Section 334.55.

11. [www.tceq.texas.gov/downloads/assistance/publications/rg-475l-temporarily-removing-petroleum-storage-tanks-from-service](http://www.tceq.texas.gov/downloads/assistance/publications/rg-475l-temporarily-removing-petroleum-storage-tanks-from-service)

12. [www.tceq.texas.gov/downloads/assistance/publications/rg-475m-permanently-removing-petroleum-storage-tanks-from-service](http://www.tceq.texas.gov/downloads/assistance/publications/rg-475m-permanently-removing-petroleum-storage-tanks-from-service)

Before taking ownership of the property, it is a good business practice to secure bids on actions that may be necessary to ensure the tank(s)' compliance (removal, upgrades, and/or samples to determine if contamination is present). There is no substitute for soil and groundwater sampling to verify if there is subsurface contamination.

## What do I need to report?

Table 1 summarizes notification and recordkeeping requirements when properties with PSTs are sold or purchased.

**Table 1: Responsibilities of sellers and purchasers of PSTs**

<i>Responsible Party</i>	<i>Action</i>
Seller	Written disclosure that the tank is regulated by the TCEQ before the property is transferred to the purchaser ( <a href="#">30 TAC 334.9</a> <sup>13</sup> )
Purchaser	Update and submit an <a href="#">Underground Storage Tank Registration and Self-Certification Form</a> <sup>14</sup> (TCEQ-00724) or <a href="#">Aboveground Storage Tank Registration Form</a> <sup>15</sup> (TCEQ-00659) with tank status and ownership registration within 30 days of sale
Purchaser	Submit a <a href="#">Construction Notification Form</a> <sup>16</sup> (TCEQ-00495) to TCEQ 30 days prior to major construction activities (USTs only)
Purchaser	Record keeping in accordance with <a href="#">30 TAC 334.10</a> <sup>17</sup>

Written disclosure from the seller to the buyer must include the names and addresses of the seller (or grantor) and the purchaser (or grantee), the number of tanks involved, a description of each tank (capacity, tank material, and product stored, if applicable), and the agency's designated facility identification number (if the entire facility is being transferred). The following certification statements are sufficient:

- For UST properties

The underground storage tank (or tanks) included in this conveyance is (are) presumed to be regulated by the Texas Commission on Environmental Quality and may be subject to certain requirements for registration, compliance self-certification, construction notification, and other requirements found in Title 30, Texas Administrative Code, Chapter 334.

13. [www.tceq.texas.gov/goto/view-30tac](http://www.tceq.texas.gov/goto/view-30tac)

14. [www.tceq.texas.gov/downloads/permitting/waste-registration/forms/pst/0724.pdf](http://www.tceq.texas.gov/downloads/permitting/waste-registration/forms/pst/0724.pdf)

15. [www.tceq.texas.gov/downloads/permitting/waste-registration/forms/pst/0659.pdf](http://www.tceq.texas.gov/downloads/permitting/waste-registration/forms/pst/0659.pdf)

16. [www.tceq.texas.gov/downloads/permitting/waste-registration/forms/pst/0495.pdf](http://www.tceq.texas.gov/downloads/permitting/waste-registration/forms/pst/0495.pdf)

17. [www.tceq.texas.gov/goto/view-30tac](http://www.tceq.texas.gov/goto/view-30tac)

- For aboveground storage tank (AST) properties

The aboveground storage tank (or tanks) which are included in this conveyance is (are) presumed to be regulated by the Texas Commission on Environmental Quality and may be subject to certain registration, delivery prohibition, installation notification, and other requirements found in Title 30 Texas Administrative Code, Chapter 334.

For further information regarding tank registration, refer to [Petroleum Storage Tank Registration and Self Certification](#)<sup>18</sup> (RG-475d).

## Where do I find more information?

Find complete requirements in [30 TAC](#)<sup>19</sup> for:

- Laws and regulations about the PST Program (30 TAC Chapter 334)
- Technical standards for USTs (30 TAC Chapter 334, Subchapter C)
- Requirements for ASTs (30 TAC Chapter 334, Subchapter F)
- Tanks in the Edwards Aquifer (30 TAC Chapter 213)
- Tanks over other aquifers (30 TAC Chapter 214)
- Financial assurance (30 TAC Chapter 37 Subchapter I)

Other online resources include:

- Additional laws and regulations relating to the PST program are found in the [Texas Water Code, Chapter 26, Subchapter I](#).<sup>20</sup>
- [Guidance for tank owners and operators](#)<sup>21</sup> developed by our Small Business and Local Government Assistance (SBLGA) program.
- Links to additional webpages about registering PSTs, technical requirements for regulated PSTs, and LPST cleanup are available on the [Petroleum Storage Tanks webpage](#).<sup>22</sup>
- [Investigating and Reporting Releases from Petroleum Storage Tanks](#)<sup>23</sup> (RG-411).
- [TCEQ's form and publications search](#).<sup>24</sup>

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18. [www.tceq.texas.gov/downloads/assistance/publications/rg-475d-petroleum-storage-tank-registration-and-self-certification](http://www.tceq.texas.gov/downloads/assistance/publications/rg-475d-petroleum-storage-tank-registration-and-self-certification)

19. [www.tceq.texas.gov/goto/view-30tac](http://www.tceq.texas.gov/goto/view-30tac)

20. [statutes.capitol.texas.gov/Docs/WA/htm/WA.26.htm](http://statutes.capitol.texas.gov/Docs/WA/htm/WA.26.htm)

21. [www.tceq.texas.gov/assistance/industry/pst](http://www.tceq.texas.gov/assistance/industry/pst)

22. [www.tceq.texas.gov/permitting/pst\\_cert.html](http://www.tceq.texas.gov/permitting/pst_cert.html)

23. [www.tceq.texas.gov/downloads/remediation/pst/responsible-party/investigating-and-reporting-releases-from-psts-rg-411.pdf](http://www.tceq.texas.gov/downloads/remediation/pst/responsible-party/investigating-and-reporting-releases-from-psts-rg-411.pdf)

24. [www.tceq.texas.gov/publications](http://www.tceq.texas.gov/publications)