



Robert Moser, MD, Secretary

Department of Health & Environment

Sam Brownback, Governor

**Testimony on House Bill 2305
An Amendment to the Kansas Storage Tank Act
to
Senate Natural Resources Committee
Presented by Gary Blackburn
Director, Bureau of Environmental Remediation
March 15, 2013**

Chairperson Powell and members of the Senate Natural Resources Committee, I am pleased to appear before you today to discuss House Bill 2305, an amendment to the Kansas Storage Tank Act.

This amendment to the Kansas Storage Tank Act will require new or replacement installations of underground storage tank (UST) systems to be built with secondary containment. Secondary containment consists of double-walled USTs and piping and containments sumps at the submersible pump head and beneath the dispensers. The containment spaces will be monitored for leaks from the UST system. There will not be a requirement to upgrade existing UST systems unless there is a replacement of an existing UST or more than 50% of the existing piping connected to the UST. The requirement for secondary containment does not include repairs to restore an existing single-wall UST, single-wall piping, or a dispenser without secondary containment to operating condition. The purpose of secondary containment and monitoring is to reduce releases of hazardous substances and petroleum to the environment by containing and detecting the release, and removing the regulated substance before it reaches the environment.

This amendment is proposed to conform the state UST program with the federal Energy Policy Act of 2005 and new federal UST regulations that will be final this year. The federal Energy Policy Act of 2005 offered states two options to improve protection of groundwater from releases of regulated substances from USTs: 1) require that all new UST systems have secondary containment or 2) require installers and manufacturers of USTs to maintain pollution liability insurance. Kansas and Missouri were the only two states that implemented the insurance option. EPA policies and regulations developed since 2005 have made implementation of the insurance option very difficult, and new regulations proposed by EPA do not include an insurance option for states to follow.

The Kansas Storage Tank program is one of 36 state UST programs currently approved by EPA to operate in lieu of the federal program. Because of this approval, Kansas has been able to match the program requirements with the conditions within the state. This works to the benefit of UST owners and operators in Kansas, rather than being subject to a program dictated by the federal government. Once the new federal UST regulations become final next year, Kansas must make a new request for state program approval from EPA. To maintain state program approval, Kansas will need to adopt secondary containment requirements. Without state program approval, the federal regulations take effect in Kansas and secondary containment will be required regardless.

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Losing state program approval would have serious implications for UST owners and operators beyond the requirement for secondary containment. KDHE has developed a program that works with UST owners and operators to achieve compliance with the UST rules, rather than an impersonal federal approach that emphasizes heavy handed enforcement and large fines to accomplish compliance with UST rules. The federal EPA typically assesses large fines, well over \$500, for minor violations found during inspections. Failure to comply with federal EPA directions can lead to tens of thousands in fines. The KDHE approach, on the other hand, is to work with facility owners and operators to educate them about the UST rules. Instead of fines, KDHE issues short term temporary permits to facilities to allow them to demonstrate compliance with UST rules and continue to operate.

KDHE has a long standing history of providing training to owners and operators of USTs. KDHE has worked with Tank Management Service (TMS) since the mid-1990s to provide training seminars for UST operation. For the past four years, KDHE has contracted with TMS to provide the operator training that is now an EPA requirement.

The Kansas Petroleum Storage Tank Release Trust Fund provides funding for corrective action and satisfies the insurance requirements for corrective action required by federal law. The cost of insurance to meet federal requirements is beyond the means of many small businesses in Kansas. The Trust Fund protects UST owners and operators from the prohibitive costs of performing cleanups of soil and groundwater from releases from their USTs. Without state program approval the Trust Fund will likely not be recognized by EPA as satisfying the federal requirements and UST owners and operators would likely need to buy private insurance.

I thank you for the opportunity to appear before the House Energy and Environment Committee and will gladly stand for questions the committee may have on this topic.

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