

SUBSTITUTE SENATE Bill 5475

Modifying provisions affecting underground storage tanks

PROGRAM IMPACTS

Substitute Senate Bill (SSB) 5475 is an act relating to underground storage tanks (UST) and it amends the existing UST law (Chapter 90.76 RCW). SSB 5475 was signed into law by Governor Gregoire. It becomes effective July 22, 2007. The amended law:

- extends the sunset date for the UST program to 2019.
- increases annual tank permit fees over several years.
- provides an additional penalty appeal provision.

SSB 5475 was amended to meet the requirements of the federal Energy Policy Act of 2005. SSB 5475 states that Ecology shall adopt rules to implement these new federally required mandates:

- develop and implement an operator training program.
- develop and implement a delivery prohibition program for noncompliant UST systems.
- develop and implement a requirement for secondary containment for new or replacement UST systems or components (not existing UST systems).

The federal Energy Policy Act also requires that UST systems be inspected at least once every three years. Tank fees are increasing to allow hiring of additional Ecology UST inspector full-time-equivalents (FTEs) to meet this new three-year inspection cycle.

RESOURCE IMPACTS

SSB 5475 provides additional revenue to Ecology's Fund 182 – the UST account. Annual tank permit fees paid by tank owners, are increasing from \$100 to \$120 starting in state fiscal year (FY) 08. Fees increase to \$140 in FY09, and potentially to \$160 in FY10. The FY10 increase is dependent on whether adequate on-going federal grant funds are received to offset the need for that fee increase.

Based on the additional revenue, the Office of Financial Management authorized Ecology to add 6.7 FTEs over the next two years to implement SSB 5475. Of the new FTEs, 5.7 will be hired as UST inspectors. Those new FTEs will be distributed equitably to the various Ecology offices based on the existing staff and workload. The remaining FTE will be added to provide administrative and database support to the new inspector FTEs.

Ecology is scheduled to receive additional EPA grant funding during state FY08 and FY09 to help Ecology comply with new Energy Act requirements. The Toxics Cleanup Program is planning to use those "booster" grant funds to hire an UST rule writer (a 2-year project

FTE) and to hire a contractor to develop and begin implementation of the UST operator training program.

WORK PLAN

As noted above, there are several new requirements of the UST legislation. Here are the plans for accomplishing them:

- The sunset date of the UST program has been extended by legislative action. Besides coordinating with the Joint Legislative Audit Review Committee (JLARC), no further work is needed for this element.
- The Department of Licensing (DOL) currently collects tank permit fees on behalf of Ecology. Beginning July 1, 2007, DOL will begin collecting the increased tank permit fees. An Interagency Agreement associated with collection of those fees, and Ecology's payment of bank fees connected to use of credit cards, has been signed by Ecology and is being signed by DOL. The increased tank fees will allow Ecology to hire 5.7 new UST inspector FTEs. Two FTEs will be hired in FY08. The remaining 3.7 inspectors and the additional administrative/database support FTE will be hired in FY09.
- The additional penalty appeal provision, known as an Application for Relief, is already being used by Ecology. The legislative change to RCW 43.21B.300 (Pollution Control Hearings Board) legally authorizes what Ecology has been doing for many years.
- The operator training program will be developed and implemented by a contractor to Ecology. EPA grant funds are planned to be used to implement this new requirement. Development and initiation of training is expected to occur during the 08-09 biennium.
- Ecology currently has much of the delivery prohibition program already in effect with our Facility Compliance Tag process. Additional legal evaluation and amended UST rules are needed to better define the delivery prohibition program. Full implementation is not expected until after the rule rewrite.
- New and replacement UST systems must install secondary containment starting July 1, 2007. Ecology needs to define acceptable technologies. This will be done as part of the rule making process described below. In the interim, Ecology will prepare interim guidance by October 1, 2007.
- Last, and most important, Ecology needs to revise the UST rules (WAC 173-360). This multi-year process is planned to be addressed as follows:

Hire a rule writer position	Fall 2007
File CR 101 & Establish an advisory committee	Fall 2007
File CR 102 (Draft rule)	Spring 2009
File CR 103 (Adopt final rule)	Summer/Fall 2009

Contact person: Mike Blum, Toxics Cleanup Program; (360) 407-6913;
mblu461@ecy.wa.gov