

# Aging USTs and Financial Responsibility

---

NATIONAL TANKS CONFERENCE

SEPTEMBER 14, 2022

---

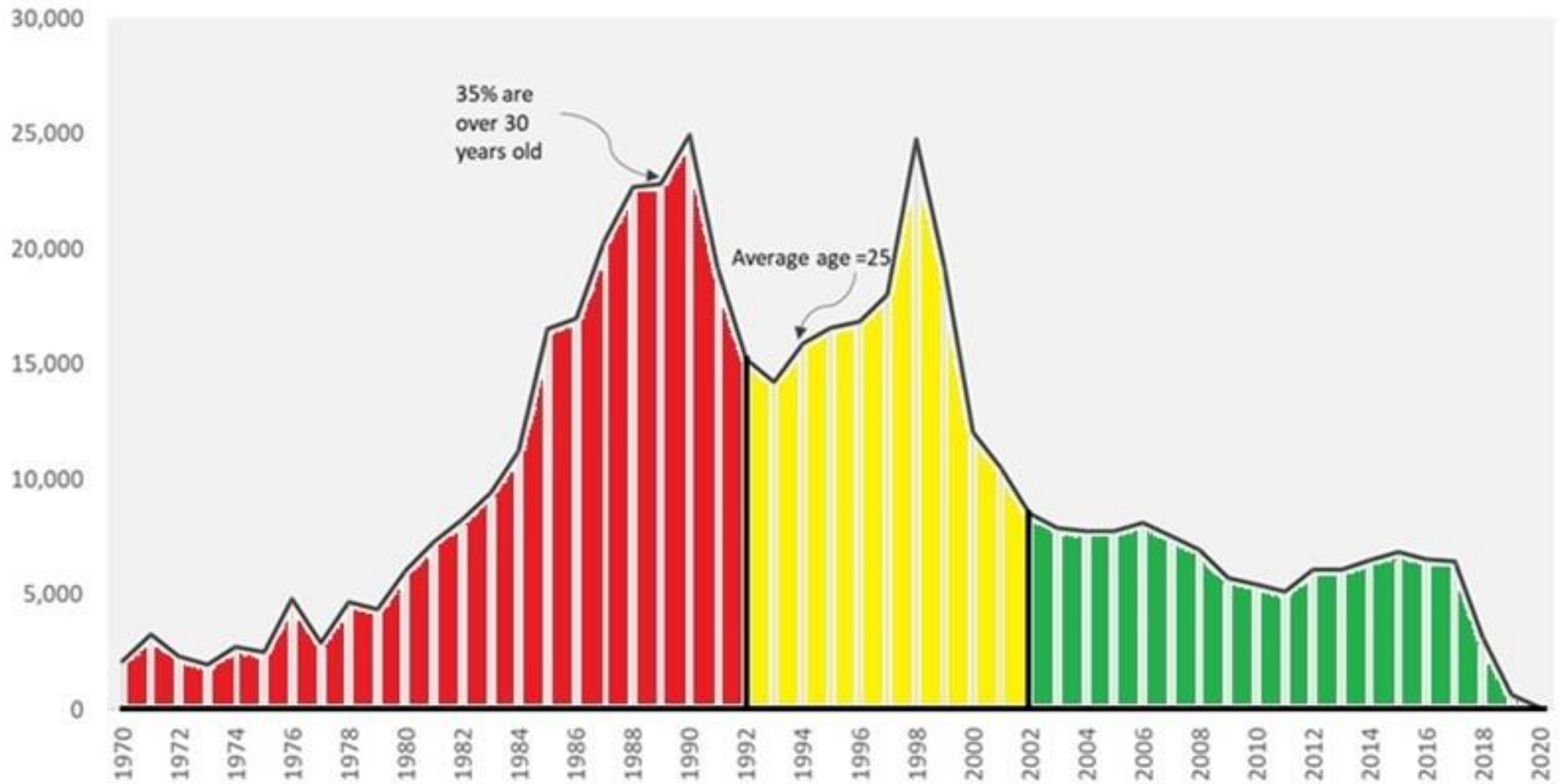
Disclaimer:

- The information in this presentation is a summary of conversations with insurance providers and brokers. It is not an endorsement by EPA of the products or services provided by these companies.
- Owners and operators of USTs are free to contact anyone to meet their insurance needs.
- The providers listed in this presentation is not necessarily comprehensive because it captures only those with whom OUST had conversations as of June 2021.

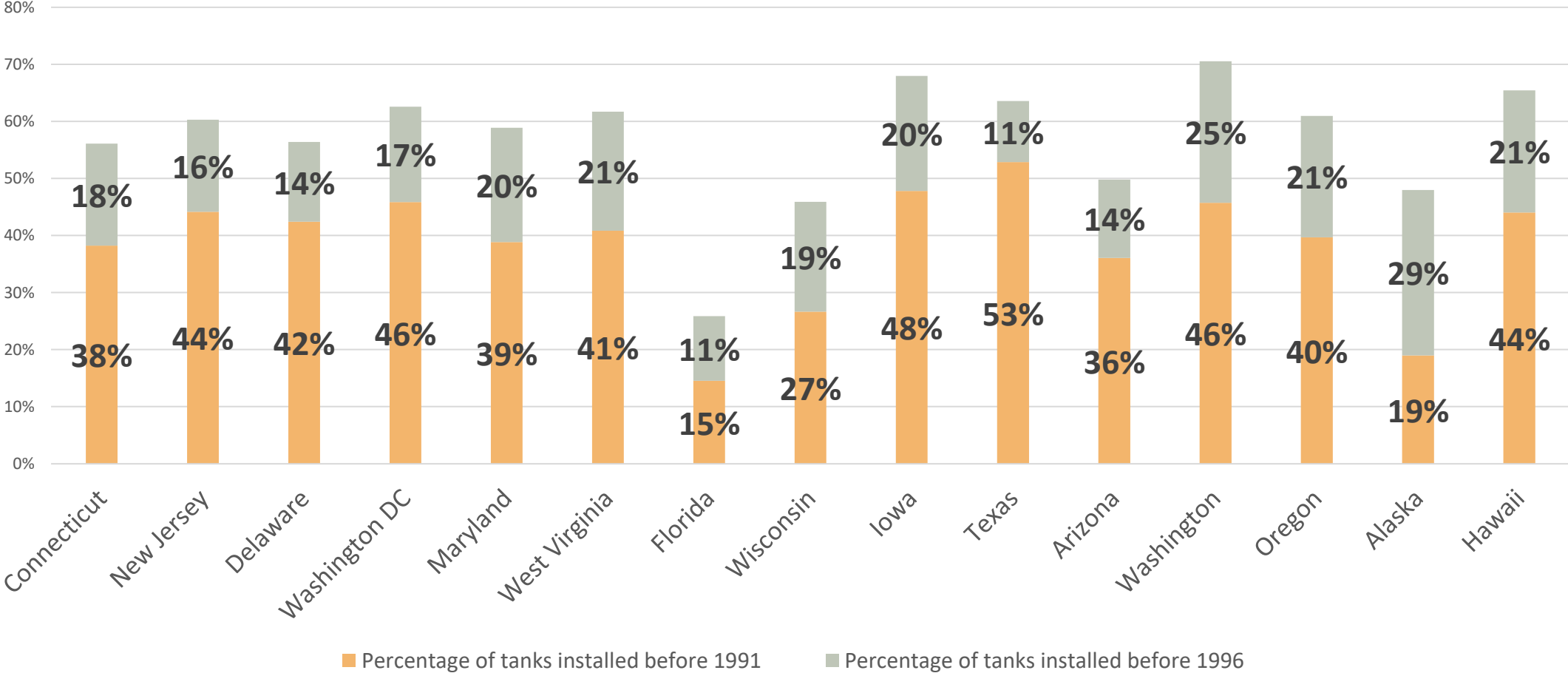
# The problem

- The tanks population is aging
- Owners of USTs over 30 are having trouble renewing and finding insurance
- Small owners are struggling the most
- Many states have raised concerns

# Install Year of Active & TOS USTs n=494k



# Aging Tanks in “Insurance States”

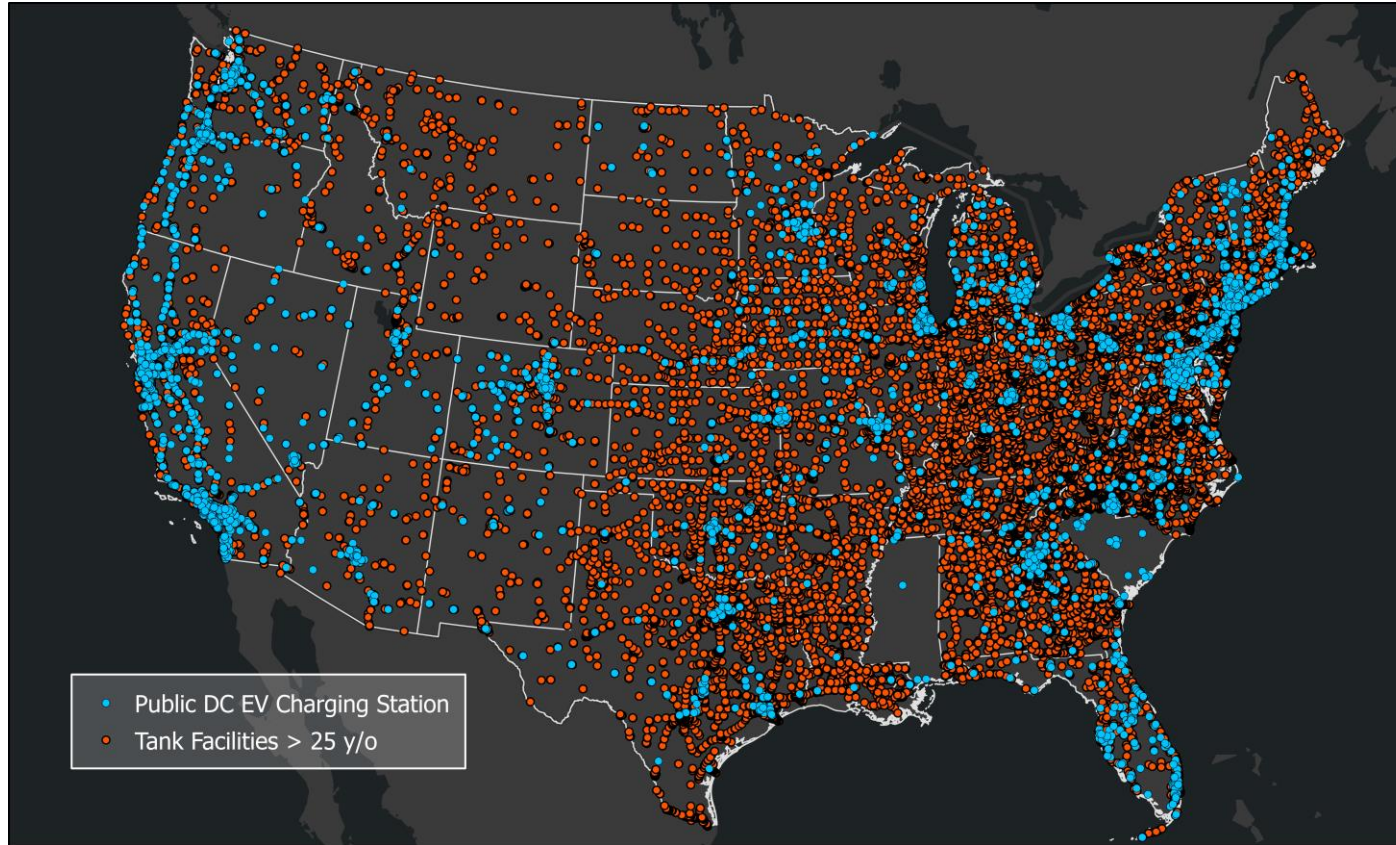


# What is OUST Doing?

- Spoke with 8 insurance providers and 2 brokers
- Asked insurers about their approach to insuring aging tanks
- Updated [FR Technical Compendium](#) with helpful tips and more resources
- Updated [List of Insurance Providers](#)
- Memo to UST Community
- [New Webpage on Aging USTs](#)

# 76,000: Aging USTs Where All USTs at a Facility Installed pre-1995

---



# EPA's New Aging UST Systems Web Area:

**Aging UST Systems**

There are approximately 500,000 petroleum underground storage tank systems at 200,000 facilities in the United States, many of which are nearing or already older than 30 years of age. Underground storage tank systems are defined as an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any. Underground storage tank systems typically include dozens of components and are hereafter referred to simply as USTs.

The UST industry has changed significantly in the last decade. Some owners and operators of aging USTs may be considering how these changes impact them.

The following are some of these recent changes in the UST industry:

- Damaging [corrosion](#) of UST equipment has become common in much of the country.
- Many places have experienced changes in rainfall, resulting in more floods, droughts, or intense rain due to climate change. These precipitation changes, along with more extreme temperatures and [natural disasters](#), can impact UST operations or damage infrastructure.
- Most owners and operators have additional UST regulatory requirements (based on the 2015 [federal UST regulation](#)) intended to improve protection of human health and the environment.
- [New fuels](#) have entered the U.S. market, some of which can be stored only in certain USTs.
- The U.S. transportation industry has already begun a major [technology transition](#) [exit](#) that will take place over the coming decades. The U.S. government has recently [committed billions](#) [exit](#) of dollars to a multitude of programs that seek to deploy a network of electric vehicle chargers, zero-emission fueling infrastructure, and zero-emission transit and school buses.

On this page, readers will find information about:

- [Regulatory requirements for aging USTs](#)
- [Insurance and financial responsibility for aging USTs](#)
- [Investigating older tanks](#)

**Regulatory Requirements for Aging USTs**

The federal UST regulation does not require USTs be removed based on age. The regulation sets

- Released July 2022
- Focus areas:
  - Regulatory requirements
  - Insurance and financial responsibility
  - Investigating older tanks in UST systems
  - Considering transitions for aging UST systems

<https://www.epa.gov/ust/resources-ust-owners-and-operators#aging>

<https://www.epa.gov/ust/resources-ust-owners-and-operators#transitions>



# What Do Insurers Say?

- Some no, some maybe, some yes
- What owners can do to get coverage
  - Demonstrate compliance by maintaining thorough inspection, release detection, and testing records
  - Fully complete the insurance application
  - Prepare for higher premium and a larger deductible
  - Install new piping, sumps, and spill buckets, known as a tank top upgrade
  - Retrofit tanks with double-walled interior
  - Install new tanks

# Which Providers Will Write Aging Tanks?

- Mid-Continent
- Prime
- Ironshore
- Ace/Chubb

# Under What Conditions?

- Mid Continent
  - Not near bodies of water
- Prime
  - Excess and surplus lines carrier
  - Won't write in New Jersey
- Ironshore
  - \$150K deductible w/ financial test
  - Tank tightness test
- Ace/Chubb
  - \$250K deductible for single-walled w/ financial test
  - Will write old double-walled tanks

# Current Issues with UST Financial Responsibility Insurance

Tom Schruben, US EPA OUST

National Tanks Conference

September 14, 2022

## Recent Policy Issues

### **Do not meet FR requirements**

- No insurance certificate or endorsement
- Tank schedule vs tank notification data
- Voluntary tank removal or site assessment exclusions

### **Concerning trends**

- Regulatory compliance exclusion
- Unaffordable deductibles

# No Financial Responsibility Certificate or Endorsement

8. Policy Minimum Earned Premium: \$ See individual certificates
9. Underground Storage Tank Schedule: See individual certificates
10. Forms and Endorsements Attached to this Policy:

Form No.	Endorsement No.	Form/Endorsement Title
PLLCP 0311		Environmental Impairment Liability Master Policy
XL-FLSOP 0311		Service of Process
PNCW01 0311		Notice to Policyholders – Fraud Notice
PNCW02 0311		Notice to Policyholders – Privacy Policy
PNCW05 0311		U.S. Treasury Department's Office of Foreign Assets Control
PNFL03 0311		Notice to Policyholders
ILMP 9104 0314 IHIC		In Witness
CG2173 01/15		Exclusion of Certified Acts of Terrorism
PN104 01 15 T		Notice of Terrorism Insurance Coverage

Agency Name:

Address:

City/State/Zip:

Policy issue date 1/26/2022

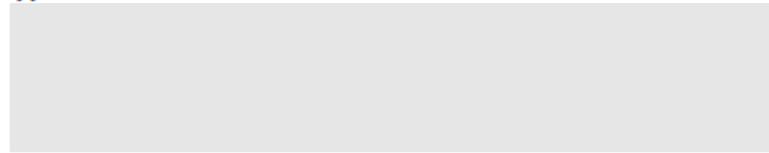


# Tank Schedule

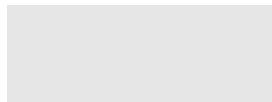
## EIL Insured Locations

Location 1:

Named Insured Location Address



Location Town



Location ST



Units  
65

Pools  
1

USTs  
0

Sewage  
0

Premium  
\$ 500.00

# Voluntary Tank Removal And Voluntary Site Investigation Exclusions

...any claim arising out of, caused by, resulting from, contributed to, or in any way related to any pollution incident discovered during any voluntary tank removal of any underground storage tank system.

...any claim arising out of release arising from, discovered, or exacerbated as a result of a voluntary investigation of environmental conditions or any storage tank system.



# Regulatory Compliance Exclusion

## Mild Version

This policy does not apply to ...Bodily Injury, Property Damage or Corrective Action costs arising out of an incident which results from or is **directly or indirectly attributable to failure to comply** with any applicable statute, regulation, ordinance, directive, or order relating to the protection of the environment and promulgated by any governmental body, **provided that failure to comply is a willful or deliberate act or omission** of: the insured, or you or any of your members, managers, partners or ‘executive officers’.

## Restrictive Version

**This insurance does not apply to any Underground Storage Tank which is not in full compliance** with 40 CFR Part 280 and any state regulations applicable to Underground Storage Tanks.

# Unaffordable Deductible

## DEDUCTIBLE AMENDATORY ENDORSEMENT

It is agreed that any “claim” arising from, out of, caused by, resulting from, contributed to, or in any way related to any **“pollution incident” discovered during any “removal” or “investigation”** of the below scheduled “underground storage tank systems” **will be subject to a \$1,000,000 per incident deductible**, insured under this policy.

“Removal” means ... no prior knowledge of a failure in or "pollution incident" from the "underground storage tank system".

“Investigation” means the taking or testing of soil or groundwater ... which is not required as the result of a failure in or verified “pollution incident”...

## Other resources

- Other Insurance States
- Quarterly State Funds/FR Call
- [FR OUST Reference Manual](#)
- [ASTSWMO Guide to Tank Insurance](#)
- [FR Technical Compendium](#)
- [ASTSWMO insurance handout](#)
- [EPA OUST Dollars and Sense](#)
- LUSTLine Articles from May 2012, June 2017, and August 2018
- IRMI.com
- Emma Krulick at OUST - [Krulick.Emma@EPA.gov](mailto:Krulick.Emma@EPA.gov)

Questions for the panel?

Stuart Friedman  
Section Chief  
State of New Jersey  
Department of  
Environmental  
Protection





# Current Issues with UST Financial Responsibility Insurance – State Perspective

---

September 14, 2022 - 27<sup>th</sup> National Tanks Conference







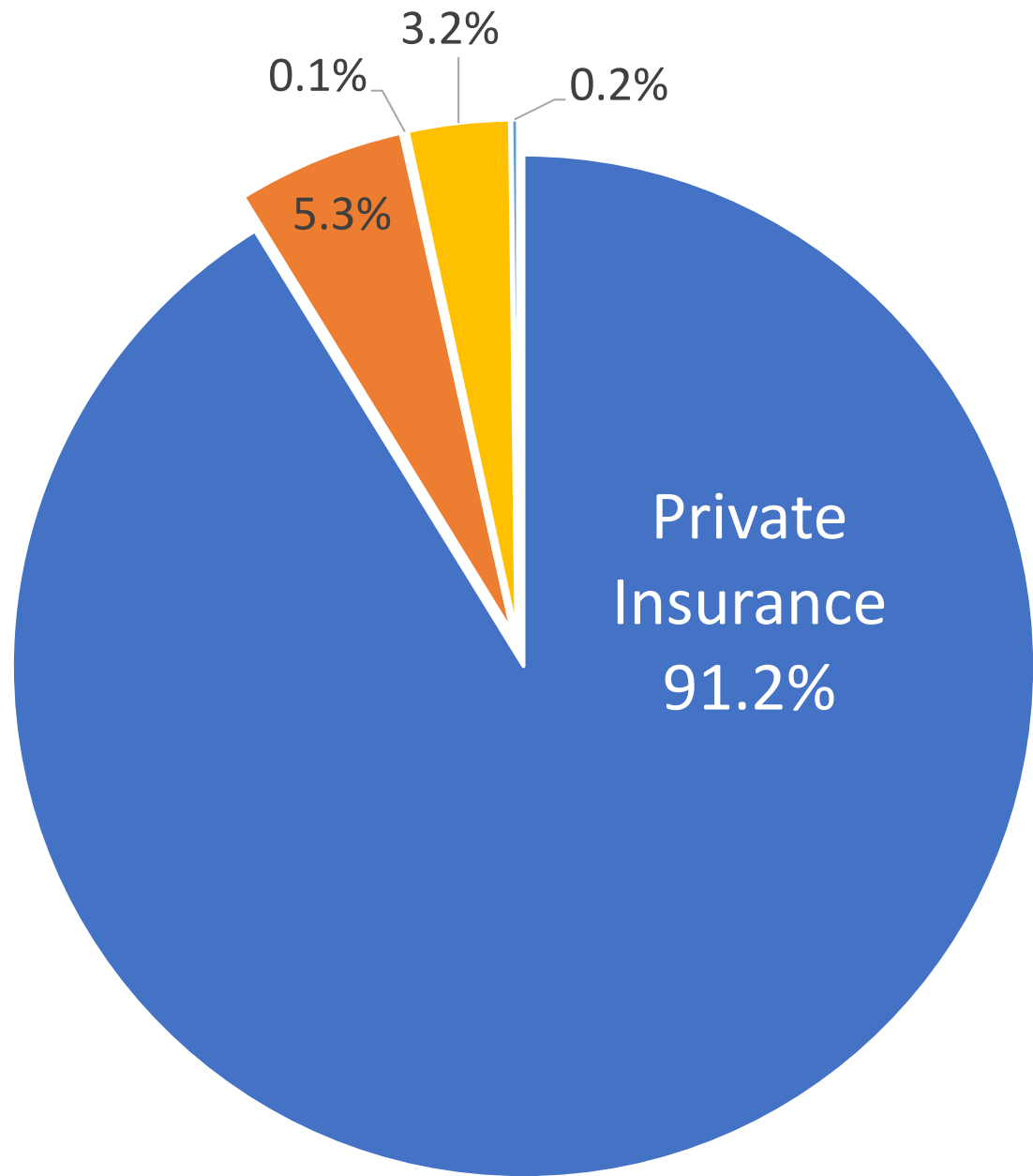
**One Score  
and 14 years  
ago ...**



- One Score and 14 years ago (1988)

- ***The FINANCIAL RESPONSIBILITY FOR PETROLEUM UNDERGROUND STORAGE TANKS PREAMBLE was published***





- Private Insurance 91.2%
- Self Insurance 5.3%
- Guarantee 0.1%
- Letter of Credit 3.2%
- Surety Bond 0.2%

Education

Targeted  
Inspections

Claims  
Notification



Find New  
Approaches



Technology

Insurers  
Notification

# NJ Tank Inventory

2017

SW - 29% - 33 years

DW - 71% - 19 years

# NJ Tank Inventory

2017

SW - 29% - 33 years

DW - 71% - 19 years

2022

SW - 19% - 37 years

DW - 81% - 19 years

Choose 'Initial UST Facility Registration' if you will be registering a new UST Facility.

- Annual Renewal/Modification of UST Facility Registration
- Financial Responsibility Insurance Policy Update
- Initial UST Facility Registration

## MULTI-FACILITY SELECTION

For the Financial Responsibility Update, select one or more Regulated Underground Storage Tank Facilities in order to complete one service per policy/financial responsibility mechanism by choosing multiple facilities below. You may not present in the list, click the 'Click Here' Link below the grid to add a Facility. The Facility must have an existing

*Select	Facility	Facility ID
<input type="checkbox"/>	1 COMMERCE DRIVE HOLDINGS @ BARRINGTON	606480
<input type="checkbox"/>	10 NORTH WALNUT STREET	295060
<input checked="" type="checkbox"/>	10 WAGARAW RD HAWTHORNE LP	009901
<input type="checkbox"/>	1001 HWY 71 SPRING LAKE NJ 0166	008376
<input type="checkbox"/>	101 LANDING COMPANY INC	90263
<input type="checkbox"/>	1082 RT 173	258200
<input type="checkbox"/>	12 16 SOUTH KINGS HIGHWAY	280959
<input type="checkbox"/>	1200 GRAND STREET CONDOMINIUMS	166604
<input type="checkbox"/>	14 22 MAIN STREET ASSOCIATES	746393
<input type="checkbox"/>	2085 BELVIDERE ROAD	298645
<input type="checkbox"/>	2644 RT 206	617815
<input type="checkbox"/>	30 W JOHNSTON ST	562865
<input type="checkbox"/>	301 BOONTON ASSOCIATES LLC	90386

Type of Mechanism:

INSURANCE

\*Carrier/Issuing Institution:

CD Commercial Agency/Westchester\_

\*Name of Insured:

Chemical Cord

\*Policy Number:

12345678901234567

\*Effective Date:

12/01/2021

\*Expiration Date:

12/31/2022

\*Limit of Liability:  
Each "Occurrence" or "Incident"

\$ 1000000

\*Limit of Liability:  
Aggregate

\$ 2000000

\*Limit of Defense Costs

\$ 3000000

\*Does this policy have multiple  
Retroactive Dates?

Yes

\*What is the earliest Retroactive  
Date?:

06/30/2021



UST Financial Responsibility Update #871137@009901 (10 WAGARAW RD HAWTHORNE LP)

core\_rt\_service\_attribute\_xrf.service\_attribute\_xrf\_id = 3851

Attachment Type	Attachment Description	Allowed Extensions	Upload File Name	Status
*Insurance Policy	Insurance Policy	pdf, doc, docx, xls, xlsx, rtf, gif, jpg, png, tif, zip, txt	Insurance Policy.pdf	
Certificate of Insurance	Certificate of Insurance	pdf, doc, docx, xls, xlsx, rtf, gif, jpg, png, tif, zip, txt	Certificate of Insurance.pdf	
Financial Responsibility Assurance Mechanism	Financial Responsibility Assurance Mechanism	pdf, doc, docx, xls, xlsx, rtf, gif, jpg, png, tif, zip, txt	Financial Responsibility.pdf	
Owner & Operator auth of Representative Signature	Owner and Operator authorization of a Representati	pdf, doc, docx, xls, xlsx, rtf, gif, jpg, png, tif, zip, txt	Owner and Operator Auth.pdf	
<b>Total Uploaded:</b>				

\* *Required*

[How do I upload a File?](#)

Add Attachment..

Add Attachment



## LSRP CONFIRMED DISCHARGE Notice (CDN)

Is this discharge related to a release from a federally regulated UST?: Yes

Source of Federal Release: Tank (Not Upgrade)


Cause of Federal Release: Other

### Additional Case Types:

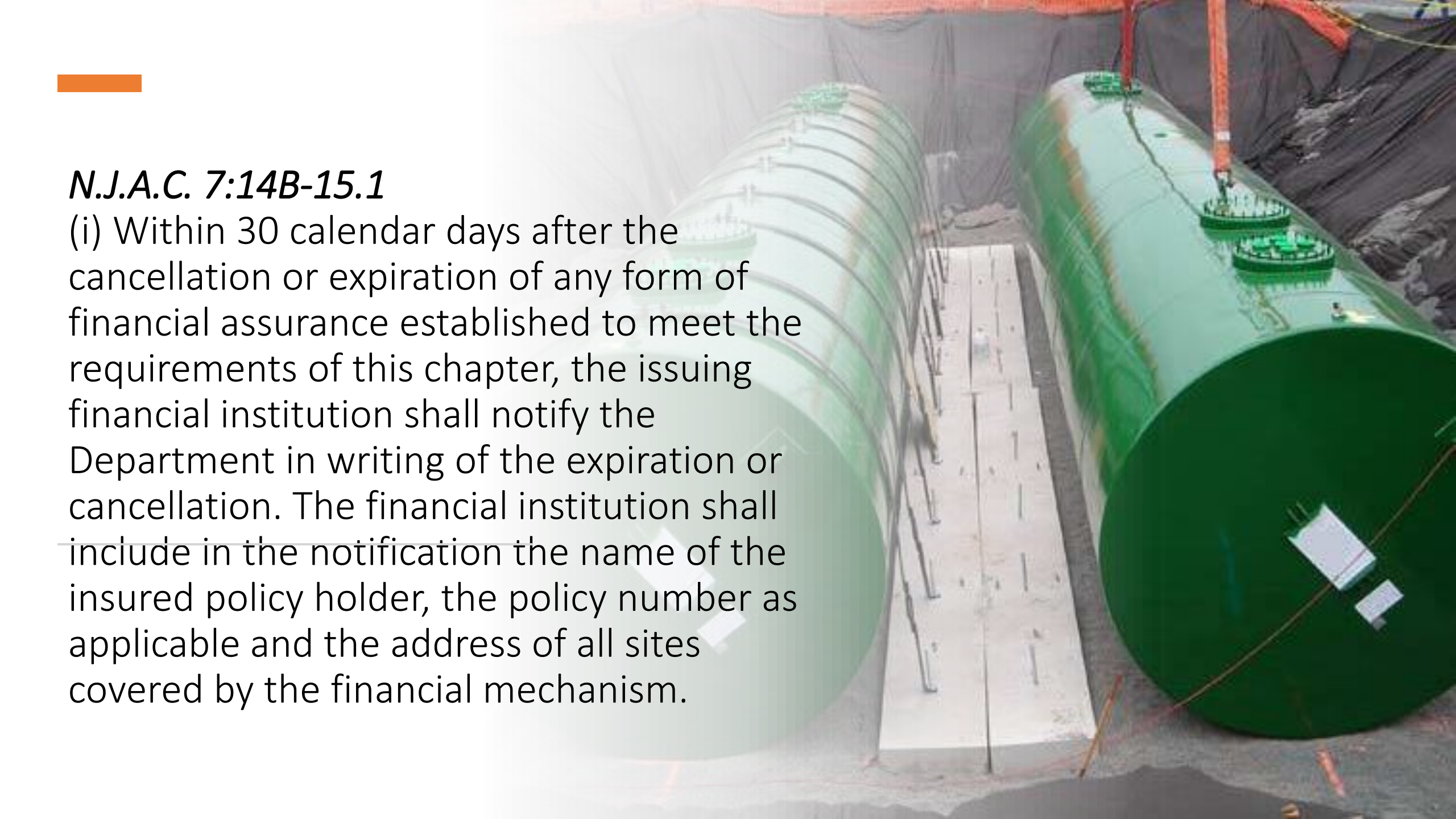
Case Type Description:
Spill Act Discharge
Regulated UST

## Tank Selection

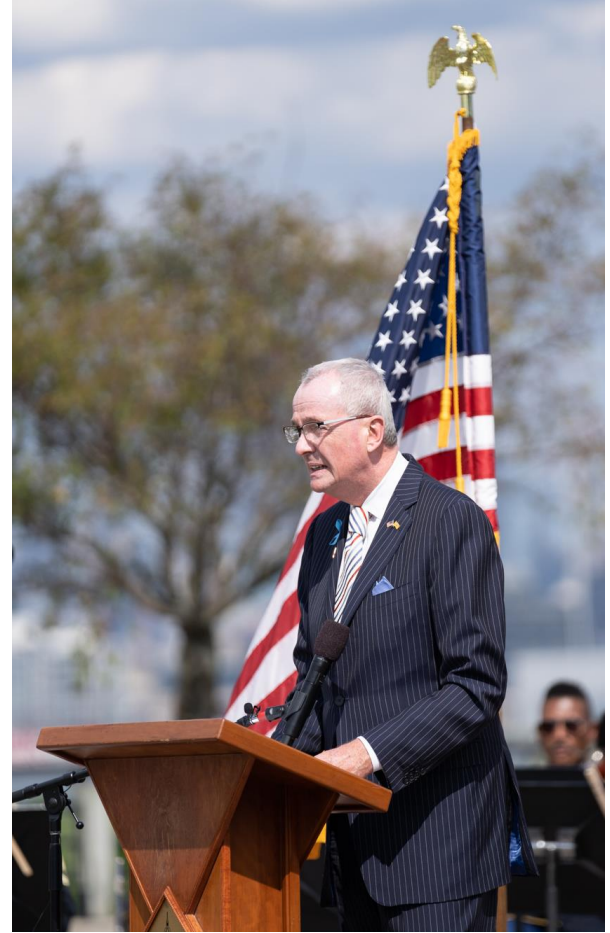
Piping Only	UST Tank Registration Preferred ID	UST Tank Registration Name	UST Tank Registration SI ID	Tank ID Number	Tank System Size	Contents
No	004243	UST Registration	3	00E3	6000	Unleaded Gasoline

  
***N.J.A.C. 7:14B-15.1***

(i) Within 30 calendar days after the cancellation or expiration of any form of financial assurance established to meet the requirements of this chapter, the issuing financial institution shall notify the Department in writing of the expiration or cancellation. The financial institution shall include in the notification the name of the insured policy holder, the policy number as applicable and the address of all sites covered by the financial mechanism.







**Thank you!**  
**Questions for the panel?**

