



Environment Alert

April 2008

A New Regulation for Underground Petroleum Storage Systems in NSW

From 1 June 2008, the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 (NSW) (UPSS Regulation) will impose new obligations and create new offences for owners and operators of Underground Petroleum Storage Systems in NSW.

“Underground petroleum storage systems (UPSS) have the potential to leak, causing environmental damage and resulting in expensive clean-up costs. A new NSW Regulation aims to reduce these risks and will require owners/operators of UPSS in NSW to urgently review and amend their compliance and environmental risk management programs”

What steps should be taken?

Owners and operators of existing petroleum UPSS must review their sites, equipment and procedures and develop risk management programs now to comply with the new Regulations that come into effect on 1 June 2008. Leak detection systems, groundwater monitoring programs and Environment Protection Plans must be developed for existing and new UPSS. Environmental risks vary from site to site and older UPSS typically present the greatest risk. Tank integrity testing and certification should be considered as a matter of priority and comprehensive records should be kept to demonstrate compliance with these new Regulations.

The aims of the new UPSS Regulation

The UPSS Regulation commences on 1 June 2008. The object of the Regulation is to regulate the storage of petroleum in underground storage systems to minimise the risk of the discharge of substances that cause significant damage to the environment. The Regulation aims to:

- > Introduce preventative measures to reduce the risks to the environment and human health;
- > Reduce time and money spent on remediation;
- > Ensure best industry standards are followed; and
- > Ensure appropriate validation and decommissioning of systems and sites.

UPSS includes the tanks, pipes, valves and other equipment that is used to store and handle petroleum products.

Who and what does the new UPSS Regulation apply to?

The Regulation applies to the “person responsible” for the management and control of a storage system. This might include the owner, lessee or operator of the UPSS. Contracts should be reviewed to determine who the EPA would see as the “person responsible”.

The Regulation applies to all existing UPSS as well as all new UPSS installed after 1 June 2008. UPSS sites affected include (but are not limited to):

- > Active service station sites;
- > Fuel terminals and depots;
- > Commercial and industrial premises;
- > Local council depots;
- > Automotive retail and hire premises;
- > Airports; and
- > Marinas.

The Regulation does not apply to a liquefied petroleum gas storage system.

The Regulation applies to both old UPSS and new UPSS. Old UPSS include systems for which development consent was obtained prior to 1 June 2008, or where installation had commenced or the system had been commissioned before that date. New UPSS are those that receive development consent after 1 June 2008.

Obligations under the UPSS Regulation

New UPSS

From 1 June 2008, the person responsible for a new UPSS will be required to:

- > Have the new UPSS designed and installed in accordance with industry standards;



- > Equip a new UPSS with mandatory pollution protection equipment including non-corrodible secondary containment tanks and pipework and overflow protection devices;
- > Install groundwater monitoring wells on the storage site and have a program to test them;
- > Carry out an equipment integrity test and obtain a certificate of compliance;
- > Have in place an Environment Protection Plan, which is to include a loss monitoring procedure, an incident management procedure and a maintenance schedule;
- > Establish procedures for detecting and monitoring leaks; and
- > Keep records, maintain an incident log for the UPSS, report leaks and notify the local council when a UPSS is decommissioned.

Old UPSS

The following obligations will be phased in after 1 June 2008 and will apply to old UPSS as follows:

- > Procedures for monitoring and detecting leaks - 1 June 2009
- > Adoption of an Environmental Protection Plan – 1 June 2009
- > Installation of groundwater monitoring wells - 1 June 2011
- > Installation of certain best practice pollution control equipment will not be required unless a “significant modification” is undertaken on the system.

Some UPSS owners/operators may be granted an exemption from complying with one or more requirements of the Regulation.

Offences under the UPSS Regulation

As soon as practicable after becoming aware of a leak from a UPSS, the person responsible for a UPSS must take action to investigate the leak, identify the source of the leak and fix the leak.

A person responsible for a UPSS will be guilty of an offence if the person contravenes a provision of the Regulation or authorises or permits such a contravention.

Maximum penalties for offences under the UPSS Regulation range from \$11,000 - \$22,000 for an individual and \$22,000 - \$44,000 for a corporation.

Guidelines

The NSW Department of Environment and Climate Change is preparing guidelines for implementing the new UPSS Regulation, which should be available very shortly.

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If you require further information or assistance with complying with your obligations under the UPSS Regulation please feel free to contact us.



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