



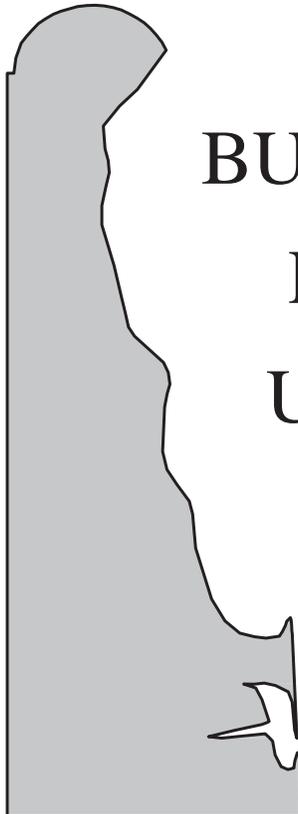
State of Delaware Department of
Natural Resources and
Environmental Control

Tank Management Section
391 Lukens Drive
New Castle, DE 19720

Ph: (302) 395-2500

Fax: (302) 395-2555

www.dnrec.delaware.gov/tanks



**BUYING or SELLING
PROPERTY with
UNDERGROUND
STORAGE
TANKS**

YOU SHOULD KNOW THE ANSWER TO THE FOLLOWING QUESTION BEFORE YOU PURCHASE PROPERTY IN DELAWARE:

Does the property have or has it ever had Underground Storage Tanks (USTs) installed?

Before you answer, consider the following:

How would you know if the property ever had USTs?

Each seller should complete a Seller's Disclosure of Real Property Condition Report. Ask to see the document and note the answer to question #30 in the Environmental Hazards section:

“Are there now or have there been any underground storage tanks (UST) in the property? (e.g., heating fuel, propane, septic)”

Note the seller's response to the presence of USTs and see the following page.



If you don't investigate before you buy, this could be your property; leaking tank and all.

STATE OF DELAWARE DELAWARE REAL ESTATE COMMISSION FORM APPROVED 10/22/07

SELLER'S DISCLOSURE OF REAL PROPERTY CONDITION REPORT

Seller (s) Name _____
 Property Address _____
 Approximate Age of Building _____ Date Purchased _____
 Please complete the following form in its entirety. Attach additional pages if needed.

Delaware Law requires a seller of residential property (improved by dwelling units for 1-4 families) to disclose in writing all material defects of the property that are known at the time the property is offered for sale or that are known prior to the time of final settlement. The disclosure must be made on this form provided by the Delaware Real Estate Commission and shall be updated as necessary for any material changes occurring in the property before final settlement. This report shall be given to all prospective Buyers prior to the time the Buyer makes an offer to purchase. This report signed by Buyer and Seller shall become a part of the purchase agreement. This report is a good faith effort by the seller to make the disclosures required by Delaware law, not a warranty of any kind by the Seller or any Agents or Sub-Agents representing Seller or Buyer in the transfer and is not a substitute for any inspections or warranties that the Seller or Buyer may wish to obtain. The Buyer cannot hold the seller or real estate agent responsible for defects in the property disclosed in this report, defects disclosed in an update of this report prior to settlement, provided Seller has complied with the Agreement of Sale, or defects which occur after settlement.

OCCUPANCY

1. Does Seller currently occupy this property? If not, how long has it been since Seller occupied the property?
 2. Is the property encumbered by a lease, option to purchase, or first right of refusal?
 3. If the property is leased, have all necessary permits/licenses been obtained?

DEED RESTRICTION, HOMEOWNERS ASSOCIATIONS, CONDOMINIUMS AND CO-OPS

4. Is the property subject to any Deed Restrictions?
 5. Is the property part of a condominium or other common ownership?
 6. Is there a Homeowners or Civic Association?
 7. If so, are there any dues or assessments involved? If "Yes", how much?
 8. Is there any defect, damage, or problem with any common elements or common areas which could affect their value or desirability?
 9. Is there any condition or claim which may result in an increase in assessments or fees?
 10. Name of Association Officer/Representative? _____ Phone # _____

11. Are you aware of any unusual loads or assessments for improvements that apply to this property or the surrounding area?

TITLE/ZONING INFORMATION

12. Is your property owned _____ in fee _____ leasehold?
 13. Are you aware of any right-of-way, easements or similar matters that may affect the property?
 14. Are you aware of any shared maintenance agreements affecting this property?
 15. Are you aware of any zoning violations, non-conforming uses, or set-back violations?
 16. Are there any unpaid assessments?
 17. Do you have any knowledge of any future assessments?

MISCELLANEOUS

18. Are there any local, state or federal agencies regarding repairs, alterations or corrections of any existing conditions?
 19. Are you aware of any existing or threatened legal action affecting this property?
 20. Do you know of any violations of local, state or federal laws or regulations relating to this property?
 21. Are you aware of anything else you should disclose to a prospective buyer because it may materially and adversely affect the value or desirability of the property, e.g., zoning changes, road changes, proposed utility changes, threat of condemnation, noise, bright lights, or other nuisance, etc.?
 22. Are all the exterior door locks in the house in working condition?
 23. Will keys be provided for each lock?
 24. Have you had, or do you now have, any animals (pets) in the house?
 25. Is there a swimming pool, hot tub, spa or whirlpool on the property?
 26. If "Yes", are you aware of any defects in such systems?
 27. If there is a pool, does it conform to all local ordinances?
 28. What is the _____

Ask for a Seller's Disclosure of Real Property Condition Report

This document will only deal with petroleum Underground Storage Tanks (USTs). If other substances are indicated, you should investigate.

WHAT DOES A RESPONSE OF NO OR UNKNOWN TO THE QUESTION MEAN?

It only means that *this* seller has no knowledge of any USTs currently or previously installed at this property.

The most common reasons a property may have had tanks are to store motor fuels to operate vehicles or equipment, to store used oil and to store heating fuel to provide heat to buildings.

If you have reason to believe that there might have been USTs at this location, or if there may be *any* potential environmental implications, you may wish to hire a consultant to do an environmental audit. A consultant can investigate the history of the property to see whether there was a manufacturing operation or business that might have had tanks. The consultant can also do a site audit to look for any evidence that tanks may have been on the property at one time or may have been paved over or covered up. If evidence of a previously installed tank is found, the consultant can take soil samples for analysis to check for the presence of contaminants.

WHAT DOES A RESPONSE OF YES MEAN?

The seller knows that there is or was an UST on the property.

How can I get further information?

If you have questions about USTs including “does the State have any record of USTs on this property,” or “does the State have soil samples from this site” you are encouraged to contact the Tank Management Section for further information. Information for contacting the Section is on the front page of this publication.

WHAT SHOULD I DO IF THERE IS AN UST ON THE PROPERTY NOW?

This depends on what regulatory category the tank falls into, whether it is leaking or has ever leaked, and whether you plan to use the tank or not.

General Considerations:

How old is the UST? Tanks older than 10 years are at greater risk for leaks. Is your bank aware of the tank? Lenders are concerned with cleanup costs and liability if the tank leaks. They may require the buyer to assess the site for contamination before lending money for the property. State regulations require that regulated tanks, with the exception of heating fuel tanks, meet financial responsibility* requirements which assures the owner’s ability to pay for a cleanup if necessary. Is there a drinking water well on-site or nearby that may be affected by a leak from the tank? The Tank Management Section maintains records of tank history for regulated tanks and for all tanks with known releases of product. Interested parties may see this information by filing a Freedom of Information Act (FOIA)* request.

Areas where Tank Management Section personnel may be of further assistance are indicated by an asterisk (*).

WHICH USTs ARE REGULATED BY THE DEPARTMENT?

1. All tanks with a capacity greater than 1,100 gallons
2. Commercial tanks, other than heating fuel, greater than 110 gallons

WHICH USTs ARE NOT REGULATED BY THE DEPARTMENT?

1. Residential or farm/agricultural tanks of 1,100 gallons or less
2. All heating fuel tanks of 1,100 gallons or less

*A buyer should be aware that the cleanup of **any** underground release (leak) is regulated by the Department, whether it is from a regulated or a non-regulated UST.*

IF YOU HAVE AN UST ON YOUR PROPERTY AND PLAN TO USE IT:

A. *If it is not a regulated tank:*

Consider hiring a contractor* to determine if the tank ever leaked. This could include a tank tightness test or taking samples around the tank to test for contamination. Be aware of any excessive use of product which could signal a leak. Consider doing manual tank gauging* at least twice a year to check for leaks. Be suspicious of oil stains around the fill or vent line, or dead or stressed vegetation in the area. This could be an indication of more serious problems below ground.

B. *If it is a regulated tank:*

Make sure the seller provides all required tank records and that the UST system (including product lines and vents) is in compliance with the Regulations when you purchase the property. This includes a history of previous owners, confirmation that the UST system is in compliance with leak detection requirements*, inventory records*, any upgrades or repairs to the equipment, and tank registration papers. The seller and buyer are both responsible for sending tank ownership information to the Department within 30 days of the transfer. You may not operate the UST system before you notify the Department that you are the new owner. If air permits for Stage I or II vapor recovery are required (for gasoline), submit the completed applications to the Department for review and approval. Make sure all registration and permit fees* are current. Arrange to meet financial responsibility* (not required for heating fuel USTs) requirements on the day of the property transfer. All existing tanks and lines were required to meet corrosion protection requirements* or be properly closed no later than December 22, 1998.

IF YOU DO NOT PLAN TO USE THE UST YOU HAVE SEVERAL OPTIONS:

1. *Out-of-service*

Regulated tanks may remain temporarily out-of-service* for up to one year. The Department must be notified and the tank emptied of product, the fill line and any access to the tank, pumps or ancillary equipment must be locked and secured. The vent lines must remain open while the tank is out-of-service. After one year, the tank must either be placed back into service, properly closed, or if you still wish to keep the tank out-of-service, you must make a request to the Department in writing. A site investigation* must be performed, and the results submitted to the Department with the request. The Department will then determine whether the tank may remain out-of-service.

A tank protected from corrosion, a fiberglass tank for example, may remain out-of-service indefinitely after first demonstrating to the Department that the tank had not leaked during the time it was in operation.

2. Tank Closure - Removal or Closure-in-place

To properly close a regulated tank, it must either be removed from the ground or closed-in-place. This must be done by a contractor who is certified* by the State of Delaware. The tank is emptied of product, freed of explosive vapors, and a hole is cut in the top of the tank. A person then enters and cleans the tank. The tank is then removed from the ground or is filled with a solid, non-compressible, inert substance (usually concrete slurry).

Soil samples are taken at the time of closure to determine the extent of any release of product and the results are sent to the Department for review.

Site Closure for Regulated USTs

The Department will review soil sample results and determine whether any cleanup of the site is necessary. When all regulatory requirements are met, a No Further Action (NFA), or closure letter, will be sent to the owner of the closed UST stating that based on the sample results submitted, the Department requires no further action at this site.

Site Closure for Non-regulated USTs

Non-regulated tanks are not required to be properly closed, but with environmental concerns today, property owners and lending institutions may request a closure letter from the Department. If they are treated as regulated tanks and the procedures and conditions for regulated tanks are met, the Department will issue a closure letter. However, since regulated USTs take priority, expect a normal turnaround time of 30 days or longer for non-regulated tanks.

The Department has determined that there are certain levels of contamination that can remain in the ground without posing a significant risk to human health, safety, or the environment. The levels are specific to each property and are determined by the Department.*

WHAT DO I DO IF I PURCHASE A PROPERTY THAT FORMERLY HAD AN UST?

If the tank was properly closed, the seller should provide a copy of the closure letter that was sent to the tank owner.

If the tank was not properly closed, or the seller has no information about the former tanks, it would be prudent to investigate the site. The seller or the buyer could hire an environmental consultant to investigate and/or sample the site to determine any environmental impact the tank might have had on this site or neighboring property. Check with the Department to see if any leaks were reported at this site.

***Areas where Tank Management Section personnel may be of further assistance. Please call the office.**