



Aboveground Storage Tanks in Kansas: Program Highlights and Registration Requirements

Background

The Kansas Department of Health and Environment (KDHE) is authorized to adopt rules and regulations necessary to carry out the provisions of the [Kansas Storage Tank Act](#), signed into law in 1989. KDHE later adopted [regulations](#), effective November 26, 1990, to specifically regulate petroleum products storage tanks in Kansas. While emphasis of storage tank statutes and regulations is on underground storage tanks (USTs), specific provisions are related to aboveground storage tanks (ASTs) only, as well as to both ASTs and USTs. An AST program overview document, available at http://www.kdheks.gov/tanks/download/ast_overview.pdf, expands on some of the information provided in this fact sheet.

What exactly is an AST?

An AST is any storage tank where more than 90% of the tank volume, including piping volume, is above the ground surface. If a storage tank happens to be situated in an underground area, such as a basement or cellar, it would



also be considered an AST if it sits on or above the floor surface.

To whom does this NOT apply?

The statute exempts many tanks, primarily based on tank size, type of use, and type of facility or operation. Although other jurisdictional or regulatory authorities may have an interest, such as the Kansas State Fire Marshal's Office (KSFMO) or a local municipality, exemptions include but are not limited to the following:

- ASTs with less than a 660-gallon capacity;
- Farm or residential motor fuel tanks of 1,100 gallons or less;
- Single-family residential heating-oil tanks;
- ASTs containing agricultural materials regulated by the Kansas Department of Agriculture (KDA) (go to http://www.ksda.gov/pesticides_fertilizer/);
- Liquid traps, storage tanks, or gathering lines associated with oil and natural gas production; and
- Surface impoundments, pits, ponds, septic tanks, or lagoons.

When does KDHE require registration and permitting of existing tanks?

The KDHE AST program requires any person who is or was the owner of any AST in use on July 1, 1992, or which was brought into use since that date, to register and obtain an operating permit for all non-exempt ASTs that contain the following:

- Liquid petroleum product fuels such as fuel oil, diesel, gasoline, gasohol, kerosene, aviation fuels, and bio-

fuels (i.e., ethanol, gasoline-ethanol blends, biodiesel, and associated blends);

- Flammable or combustible liquids;
- Liquid hazardous substances listed in 40 CFR 302.4 that are not RCRA hazardous waste; and
- Used oil.

After March 1, 1994, any of the liquid or regulated substances listed above must not be placed in an AST unless a valid permit is openly displayed at the facility. If it is determined you are operating an unpermitted storage tank, you may be subject to fines in the amount of \$10,000 per violation.

For exempt tanks containing petroleum products, the owner may elect to register them with KDHE. No permit is required for these small tanks and no charge is assessed for registration. The advantage to registering smaller ASTs with KDHE is to allow reimbursement from the trust fund to owners for approved corrective action associated with tank spills or leaks.

KDHE does not require registration and permitting for temporary ASTs such as those mounted on wheels or those at the same physical location for less than a year. These temporary ASTs, instead, fall under jurisdiction of the Kansas Department of Transportation (KDOT). Call KDOT at 785-296-3566 for more information.

What is required for new tank construction?

KDHE and KSFMO work together closely to permit and register new tanks to achieve overall environmental protection and to ensure fire code compliance. Construction can be started after approval from KSFMO/KDHE. No product can be delivered until a permit is issued. What your new tanks contain will dictate the process below to be followed:

- ◆ *Tanks containing flammable and/or combustible liquids, including fuels.* In order to ensure fire codes are met, all new or replacement tank construction for this category of ASTs must be approved in advance by using the KSFMO application form available at <http://www.ksfm.ks.gov/assets/prevention/Licensing/>

[ASTapp2009a.pdf](#). The review process will generally take anywhere from two to three weeks. Specific installation questions should be directed to KSFMO at 785-296-0661 or 785-296-3401.

Depending on who submits the application, KSFMO will issue an approval letter to either the tank owner or the construction contractor acting on the owner's behalf. At that time, KSFMO will also send a copy of the approval letter to KDHE. KDHE will then send an initial registration invoice to the tank owner to be returned with a signature and fee payment.

- ◆ *Tanks containing non-flammable, non-combustible CERCLA-listed liquids.* All new or replacement tank construction for this category of ASTs must be approved in advance by KDHE. The applicant must first complete and submit to KDHE the application form available at http://www.kdheks.gov/tanks/download/KDHE_AST_Application.doc. KDHE may request the applicant provide additional information on a case-by-case basis. Specific installation questions should be directed to KDHE at 785-296-8061.

Once an application has been approved, KDHE will send the applicant an approval letter, along with the initial registration invoice that must be returned to KDHE with a signature and fee payment. Upon receipt of the fee payment, KDHE will then issue your tank permit, which must be openly displayed at the facility.

What are notification and registration requirements?

On or about November 15 of each year, KDHE will mail out annual registration renewal invoices to owners with existing ASTs. It is important for the owner to verify the accuracy of the information on the renewal notice. As applicable, besides notification to KDHE of change in ownership or status, if any ASTs were added or replaced during the previous permit cycle, the owner must make certain that KSFMO/KDHE has received an application for the new construction. The annual registration(s) should be returned to KDHE prior to December 31 of each year and then KDHE will issue the AST permits for a period of one calendar year, which runs from August 1 to July 31.

Anytime there is a change in ownership, the current owner is required to notify KDHE by completing and submitting the *Aboveground Storage Tank Change of Ownership (AST002)* form available at http://www.kdheks.gov/tanks/forms/AST002_Change_of_Ownership.pdf. In addition, in the event of change in AST status, the current owner is required to notify KDHE by completing and submitting the *Aboveground Storage Tank Change in Status (AST003)* form available at http://www.kdheks.gov/tanks/forms/AST_Perm_Abandon_10-01.pdf.

Are there secondary containment requirements?

Most ASTs need to meet federal spill, prevention, control, and countermeasure (SPCC) requirements detailed in 40 CFR 112. For ASTs in Kansas, the U.S. Environmental Protection Agency (EPA) and KSFMO should be contacted to determine specific secondary containment requirements for your particular situation.



For those ASTs regulated by KSFMO/KDHE, secondary containment is required to contain 110% + 3" of the largest tank volume within the containment area. The additional three inches represent an average value for precipitation freeboard capacity across the state and may be used for the purpose of containment design calculations. However, it is recommended a more exact 24-hour, 25-year storm event value be used instead, corresponding more closely to the actual physical location of the tank(s). For your convenience, example and blank secondary containment

calculation worksheets for typical AST-facility scenarios are available on EPA's website at http://www.epa.gov/OEM/content/spcc/spcc_qf.htm. Specifically, KSFMO requires containment diking be provided for any size AST used for retail vehicle refueling, or any other tank of 660 gallons or more capacity. Unless the ASTs are double-lined, KDHE also recommends that all permitted ASTs have some type of impermeable secondary containment system. More information and guidance is available on the KSFMO website at the following links: <http://www.ksfm.ks.gov/above-ground-storage-tanks/> and <http://www.ksfm.ks.gov/assets/prevention/Facility-Information/2011-Fuels.pdf>. A general summary is also available at <http://www.kfb.org/generalpdfppt/storage.pdf> and may provide some useful insight.

In contrast, federal SPCC regulations contained in 40 CFR 112 prescribe secondary containment requirements, including container sizes, above and beyond those required by KSFMO for those facilities meeting certain criteria involving drilling, production, gathering, storing, processing, refining, or transferring or consuming oil or oil products. In particular, federal SPCC regulations require an AST owner/operator prepare and follow a facility-specific SPCC plan when total aboveground oil storage capacity is more than 1,320 gallons. The secondary containment area surrounding the AST must be impermeable to the materials being stored and should hold 110% of the contents of the largest tank plus freeboard capacity for precipitation. Similar to state requirements, EPA requires sufficient precipitation freeboard capacity with an amount necessary to contain a 25-year, 24-hour storm event. Several different types of secondary containment measures could be used at a facility. EPA does not dictate which secondary containment method (e.g., berms, dikes, liners, vaults, and double-walled tanks) must be used, only that the general design criteria and performance specifications mentioned above must be achieved. More information is available on the EPA website at <http://www.epa.gov/OEM/content/spcc/index.htm>, or you may contact the EPA Region 7 office at 913-551-7646.

Are there any SPCC requirements for farmers?

Even if you are a farmer, federal SPCC regulations may apply to you based solely on the size and type of your AST(s). However, due to extensive flooding across the country in 2011, EPA extended the deadline date to May 10, 2013, by which time farms must either prepare or amend, and implement their SPCC plans according to the following schedule:

A farm starting operation...	Must...
On or before August 16, 2002 through May 10, 2013	Maintain existing SPCC plan; amend and implement amended SPCC plan no later than May 10, 2013
After August 16, 2002 through May 10, 2013	Prepare and implement SPCC plan no later than May 10, 2013
After May 10, 2013	Prepare and implement SPCC plan before beginning operations

For more information on how to prepare or amend, and implement your plan, please go to http://www.epa.gov/emergencies/content/spcc/spcc_ag.htm. More detail on EPA's compliance date extension is available at http://www.epa.gov/osweroe1/content/spcc/spcc_extfarms.htm.

What is required in the event of a spill?

If your facility discharges, releases, or spills oil to navigable waters or adjoining shorelines, federal reporting requirements apply under the Clean Water Act and you must immediately notify the National Response Center (NRC) at 800-424-8802 of the discharge. More information on reporting of oil spills and hazardous substance releases is available on EPA's website at <http://www.epa.gov/osweroe1/content/reporting/index.htm> or <http://www.epa.gov/epahome/violations.htm>.

This publication was created by Kansas State University's Pollution Prevention Institute through the Small Business Environmental Assistance Program (SBEAP). SBEAP's mission is to help Kansas small businesses comply with environmental regulations and identify pollution prevention opportunities. SBEAP is funded through a contract with the Kansas Department of Health and Environment. SBEAP services are free and confidential. For more information, call 800-578-8898, send an e-mail to sbeap@ksu.edu, or visit our Web site at www.sbeap.org. Kansas State University is an EEO/AA provider.

Additional state as well as local reporting requirements may also apply. In Kansas, KDHE and the Kansas Division of Emergency Management (KDEM) are responsible for ensuring that spills, discharges, and emergency releases are properly addressed in a timely manner. Spills must be reported to KDHE at 785-296-1679, anytime day or night, 365 days per year. More information is available on the KDHE website at <http://www.kdheks.gov/spill/index.html> including spill reporting instructions at http://www.kdheks.gov/spill/download/KS_Spill_Reporting.pdf and relevant contact numbers at http://www.kdheks.gov/spill/kansas_spill_release_reporting_numbers.html.

Important Phone Numbers

- **KDHE: 785-296-8061 or 785-296-1678**
- **KSFMO: 785-296-0661 or 785-296-3401**
- **KDOT: 785-296-3566**
- **SPILLS: 785-296-1679**

Other Resources

If you need help in understanding these AST requirements, you may also contact the Kansas Small Business Environmental Assistance Program (SBEAP) at K-State by calling our toll-free hotline at 800-578-8898, or by visiting our website at <http://www.sbeap.org/> for confidential and free technical assistance.

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