

Local Fuel Distributor To Pay \$65,000 In Civil Penalties for Violating State Oil Pollution Laws

by James Hart

Several violations of state oil pollution laws have led to a \$65,000 civil penalty for a local petroleum distributor, according to the **Maryland Department of Environment** (MDE). Spokesmen from the company claim that the fine should not apply, since the company is in the process of bringing their tanks into compliance by replacing older underground systems with aboveground storage tanks (ASTs).

Tilghman Oil is a fuel service distributor that has operated in Salisbury, Md., for over 50 years. The company had initially registered three 4,000-gallon underground storage tanks (USTs) with MDE, along with a 550-gallon UST to store heating oil.

According to MDE, the company had initially submitted registration notification to MDE for the USTs in 1986. In December 1998, Tilghman wrote to MDE and stated that it had upgraded its three 4,000-gallon USTs with in-tank liners, cathodic protection and overflow protection systems.

In April 2007, MDE sent the company a notice to inspect that required the company to contact a certified UST system inspector and have a third party inspection report submitted to MDE within 60 days. According to MDE, the company did not meet this initial deadline.

MDE sent the company a final notice on Aug. 3, 2007, which required an inspection within 10 days upon receipt of the letter. According to MDE, the facility was inspected somewhere between Aug. 10 and Sept. 10. On or about Sept. 14, Pat Tilghman signed the copy of the inspection report on behalf of the company and submitted it to MDE.

Upon receiving the initial inspection report, MDE concluded that the facility failed the UST operational compliance inspection because of multiple violations.

Among them were: failure to provide a registration certificate for the tanks; failure to provide emergency shutoff; failure to provide testing of spill catchment basins; failure to provide continuous cathodic protection; and failure to provide monthly release detection records.

On Nov. 21, 2007, MDE mailed Tilghman Oil a notice to correct the deficiencies in their USTs, and ordered that the problems identified in the inspection report had to be corrected within 30 days. On Dec. 31 that same year, Jack Sipes of MDE's Waste Management Oil Control Program visited the facility to inspect their UST systems. According to MDE, Sipes found that almost none of the UST system violations that had been cited in the third party inspection had been corrected.

The company informed MDE that it was in the process of removing its old tanks and installing a new 15,000-gallon aboveground tank. But on March 28, the company again failed to demonstrate compliance with the state's storage tank regulations.

Sipes conducted a follow-up inspection in March 2008, and discovered that the company had still not corrected any of the violations that he had noted in his previous inspection. Pat Tilghman was instructed by MDE to have his gasoline and diesel USTs pumped out and taken out of service.

Tilghman indicated that he was communicating with a contractor to have the USTs removed and to install a new 15,000-gallon aboveground tank. According to MDE, he also agreed to take one of the gasoline USTs out of service and to have the other tanks precision tested every month until such time as they were properly abandoned by Tilghman, and the new tank was installed.

Sipes performed another investigation on March 28, 2008. According to MDE, Sipes concluded that Tilghman again failed to demonstrate compliance with the UST regulations, so the tanks were tagged out, which prevented future deliveries of product until such time as the company provided further information to MDE concerning its compliance with oil pollution laws.

Tilghman sent a letter to MDE in April 2008, requesting that the delivery ban be lifted and indicated that, until its new tanks arrived, Tilghman would maintain daily inventory records, have monthly precision testing on one gasoline and one diesel UST, and would pump out the second gasoline UST until it could be removed. Tilghman also agreed to submit the monthly precision test results to MDE. MDE stated that it approved the company's proposal and lifted the ban.

Sipes inspected the facility again on June 19. According to MDE, Tilghman could not provide proof of performing precision testing for the months of May and June. "Contact with Mr. Tilghman confirmed the precision test was not conducted as defendant Tilghman had proposed," MDE's complaint stated. After this inspection, the UST systems were tagged out once again, but lifted that same month when the company provided inventory records and precision test results.

On Sept. 9, 2008, Sipes was on site again to conduct an inspection when the three 4,000-gallon USTs were being removed from the ground. The company stated that it was installing a new aboveground storage tank (AST) system to replace the old USTs. According to Tilghman, the company needed to perform a lot more work on the UST systems to bring them into compliance with state regulations, and installing a new AST system was more cost-effective. The company also set up temporary tanks to stay in business during the conversion.

Soon after, MDE assessed a \$65,000 civil penalty on the company for violating state oil pollution laws. According to MDE, the penalty was issued because the company did not adequately fix or replace its equipment.

When asked about the fine, Tilghman stated that "it was a surprise to say the least. MDE worked with us on the underground to aboveground tank conversion pretty much the entire time. The point of a fine is to bring a business into compliance, which didn't apply to us, since we were going through all the steps in order to do so."

Tilghman stated that the cathodic protection systems on the USTs had failed, which along with other previous complaints was the likely source of the fine. Tilghman also said that the company had conducted soil tests around the premises but found no contamination as a result of the failed cathodic protection systems.

The company has filed a request for a hearing with MDE to discuss the violations. According to Tilghman, the \$65,000 fine has been pleaded down since it was initially issued. MDE spokesman Herb Meade stated that the company has so far been very cooperative in bringing the facility into compliance, and has been actively working with MDE and the state fire marshal in order to do so. All the facility's USTs have since been replaced with ASTs.