

Residential Tanks:

Guard Against Leaks; Insure Against Losses

by Michael V. Ferreri

Years ago a customer's residential underground storage tank was welded together, sprayed with primer, dragged across rocky soil, thrown into a pit, connected and covered with dirt. Nobody used to think twice about it.

Today, the media focus on threats to the environment. Natural gas utilities underscore the chance of leaks from USTs with negative advertising, and they vie to convert Oilheat customers to gas. Real estate agents and lenders — fearful of liability — require homeowners to remove USTs to complete the sale of their homes.

In many cases, local fire marshals are charged with overseeing residential tanks, and often they do not know enough about petroleum storage, the chance of a leak or the hazards of a leak.

With such a charged climate, any perceived pollution release from residential tanks is a valid concern to both Oilheat dealers and their customers. The challenge of diffusing public anxiety over tank leaks is daunting. But dealers who take action can protect themselves and their customers from liability.

Implement Safeguards

You should begin by discussing the threat of leaks from tanks with your insurance broker or an expert in pollution prevention. Such a person could help you establish a plan to take reasonable steps to prevent any problems before they occur.

You should ask yourself such questions as:

- Where are the flood plains in your area?
- Who lives nearby wetlands or water?
- Which of your customers has older homes and older tanks?

You should also consider setting up the following:

- A method of monitoring sudden increases in customers' oil usage.

- A method of systematic tank testing for tanks you suspect are leaking.
- A tank replacement or renewal program.
- A tank bypassing program or system within the constraints of the law.
- A basic system to alert homeowners to the potential of a leak.
- A method of keeping records and logs to which you can refer.
- A system to keep all old insurance policies, safety inspections and similar documents in a safe place.
- A system to hire and train employees.
- A plan to determine how you intend to manage spills and emergencies.
- A plan on how you intend to finance or pay for spills and emergencies.

This list does not include everything you should do. But these actions are a start, and doing something now is important. Inaction could leave you with little defense if a leak occurs. Courts often ask what a prudent person would have done to avoid a leak. They also look for a deep pocket in cases where expensive cleanups are necessary. Those deep pockets could be yours if you can't show you have taken steps to limit the risk of spills.

The Insurance Option

After you have implemented safeguards against leaks, you might conclude that neither you nor your customer has the financial resources to pay for a significant leak.

In that case, you should find an insurance company to whom the financial liability can be transferred. You have to be careful in devising a plan because insurance regulators in some states have questioned one attempt to give customers UST leak protection through service contracts.

It is possible to set up an environmental service insurance policy for your customer. A policy could cover such things as:

- The environmental specialist working at a customer's home.
- The cost to excavate the contaminated area.
- The cost to clean and properly dispose of the tank.
- The disposal of old in-lines, return lines, etc.
- The cost to grade and backfill the excavated area.
- The delivery of the contaminated soil.
- The disposal of the contaminated soil.
- The replacement of the storage tank.
- The replacement of oil lines.
- The installation of the new tank and lines.

Under such a program, you might be able to purchase insurance for your entire customer base and the customer would pay you through your service contract. You might be able offer it for between \$3 and \$5 per tank per month.

Considering the public relations boost such a policy would give you and the service you would be providing to customers, the policy might be worth considering.

While in the Northeast leaks are not as frequent as the media would have you believe, leaks do occur. They can do serious damage to the environment and cost thousands of dollars to clean up.

If you implement safeguards and insure the risks properly now, however, you will be a responsible member of your community and you will limit your customers' and your liability. Bad things rarely happen if you're prepared.

