



DEPARTMENT OF
ECOLOGY
State of Washington

Underground Storage Tank Regulations Chapter 173-360A WAC: Overview of Changes

Preliminary Draft for Stakeholder Review

July 10, 2017

For more information about the preliminary draft of the Underground Storage Tank rule:

Visit Ecology's Underground Storage Tank Rulemaking Public Involvement webpage at

<http://www.ecy.wa.gov/programs/tcp/regs/wac173360/1602inv.html>.

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Comment period ends August 18, 2017:

Submit your comments on this preliminary draft rule by **August 18, 2017**, using Ecology's

eComment system at <http://cs.ecology.commentinput.com/?id=Y74Ab>.

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Purpose of this document

This document provides a summary of the proposed changes to Chapter 173-360 WAC, Underground Storage Tank (UST) Regulations, included in the preliminary draft rule. The proposed changes are also footnoted in the rule text, which is available separately. This document is not intended to provide an explanation of each of the proposed changes.

Proposed changes highlighted grey were made to comply with state program approval (SPA) requirements in 40 C.F.R. Part 281 or to be consistent with federal rule requirements in 40 C.F.R. Part 280.

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Part 1 – Scope and definitions

Purpose of chapter

- Incorporated changes to statement of purpose in RCW 90.76.005 and 90.76.020 to include requirement that state program be consistent with as no less stringent than requirements in the Underground Storage Tank Compliance Act of 2005.

Exempt UST systems

- Changed heating oil exemption to limit it to only those UST systems storing heating oil solely for heating structures on the property where the system is located. The exemption no longer applies to UST systems storing heating oil for other purposes, such as for powering generators. UST systems that store heating oil solely for use by emergency power generators are regulated under the federal rule pursuant to §280.10(a). Also incorporated into the provision the existing definitions of “consumptive use” and “on the premises where stored.”
- Changed heating oil exemption by eliminating exception for UST systems storing in excess of 1,100 gallons. Such systems are currently subject to the release reporting provisions of the UST rule. The requirement was eliminated since releases from such systems must also be reported within 90 days under the state’s cleanup regulations (WAC 173-340-300(2)).
- To be consistent with §280.10(b)(5) of the federal rule, changed description of de minimis concentration exemption and eliminated definition of term “de minimis concentration” that confused “concentration” with “amount.”
- Consistent with changes to the definition of “underground storage tank” in §280.12 of the federal rule, updated description of pipeline facility exemption.

Partially exempt UST systems

- Consistent with §280.10(c)(4) of the federal rule, updated description of partial exemption for emergency power generator UST systems at nuclear power generation facilities.
- Consistent with §280.10(c)(2) of the federal rule, eliminated partial exemption for airport hydrant fuel distribution systems and UST systems with field-constructed tanks, except for aboveground storage tanks associated with such systems. These systems are defined and referred to in the rule as “previously deferred UST systems.”
- To be consistent with §280.10(c) of the federal rule, eliminated the applicability of the following requirements to partially exempt UST systems:
 - Notice of temporary closure and return to service.
 - Notice of changes in release detection methods.
 - Permanent closure and change-in-service.
 - Site assessment upon closure.
- Consistent with §280.10(c) and §280.90(d) of the federal rule, added financial responsibility as an applicable requirement for aboveground storage tanks associated with previously deferred UST systems.

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Compliance dates for previously deferred UST systems

- Established compliance dates for previously deferred UST systems in accord with §280.251(a) of the federal rule, except as follows:
 - Specified compliance date for Part 2 (administration and enforcement) as effective date of rule. The federal rule specifies within 3 years of effective date. All previously deferred UST systems are already required to be licensed under state rule.
 - Specified compliance date for Part 9 (service providers) as effective date of rule. The federal rule does not include service provider requirements.
 - Specified compliance date for Part 10 (financial responsibility) as effective date of rule. The federal rule specifies within 3 years of effective date. All previously deferred UST systems are already licensed and have demonstrated financial responsibility.

Delegation of state program to local governments

- Eliminated Ecology’s authority to delegate state program responsibilities to local governments, consistent with the change in statutory authority (RCW 90.76.030 repealed in 1998).

Definitions

- Moved definitions of terms used only in Part 10 (financial responsibility) to Part 10, consistent with the federal rule structure.
- Added definitions of the following terms:
 - “Airport hydrant fuel distribution system” (used federal rule definition)
 - “Cathodic protection tester” (used federal rule definition)
 - “Code of practice” (to avoid repetition)
 - “Containment sump” (used federal rule definition)
 - “Environment” (used cleanup rule definition)
 - “Include” (to avoid repetition)
 - “Previously deferred UST systems (to avoid repetition)
 - “UST system component”
- Replaced the following terms:
 - “Certified UST supervisor” replaced by “service provider”
 - “Corrective action” (undefined) replaced by “remedial action”
 - “Supervisor” replaced by “service provider”
 - “Tank permit” replaced by “license” and “facility compliance tag”
 - “Tank services” replaced by “UST system services”
 - “UST site” replaced by “UST facility”
- Extracted definitions of “petroleum” and “hazardous substance” from definitions of “regulated substance” and “hazardous substance UST system”
- Deleted definitions of terms no longer used in the rule, including:
 - “Aboveground release” (used only in cleanup rule)

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- “Belowground release” (used only in cleanup rule)
- “Beneath the surface of the ground” (definition incorporated where term used)
- “CERCLA”
- “Closure”
- “Consumptive use” (definition incorporated where term used)
- “Deferral”
- “Delegated agency”
- “De minimis concentration”
- “Director”
- “Emergency power generator”
- “Emergency power generator tank”
- “False alarm” (definition incorporated where term used)
- “Firm”
- “Immiscible”
- “On the premises where stored” (definition incorporated where term used)
- “Overfill release”
- “Party”
- “Retrofitting”
- “Structural defect”
- “Testing”
- “Underground area” (definition incorporated where term used)
- “Underground release”
- Clarified or changed definitions of the following terms:
 - “Ancillary equipment” (to clarify includes other UST system components)
 - “Class C operator” (to make consistent with federal rule – not require be employee)
 - “Compatible” (to make consistent with federal rule)
 - “Decommission” (to exclude temporary closure activities)
 - “Dispenser” (to clarify that not all dispensers meter flow)
 - “Field-constructed tank” (to make consistent with federal rule)
 - “Free product (to make consistent with cleanup rule)
 - “Install” (to clarify not all equipment is placed in ground)
 - “Motor fuel” (to make consistent with federal rule – clarify includes biofuels)
 - “Operational life” (to clarify includes periods of temporary closure)
 - “Owner” (to change lender liability exclusion to comply with state program approval requirements in §281.38(a)(2); and to clarify includes owners at time of permanent closure or change-in-service)
 - “Person” (to clarify includes associations and partnerships, consistent with cleanup rule)
 - “Petroleum” (to make consistent with federal rule – include petroleum derived from non-crude oil products)
 - “Rectifier adjustment” (to clarify who may perform such services)
 - “Release” (to clarify includes any entry into the environment, consistent with definition of “release detection”)

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- “Release detection” (to make consistent with federal rule – clarify that includes leaks into interstitial spaces; also eliminated reference to “secondary barriers,” which are no longer used or allowed as secondary containment under state rule)
- “Repair” (to make consistent with federal rule – clarify includes restoration of any component that is not functioning properly)
- “Secondary containment” (to make consistent with federal rule – clarify that includes containment sumps used for interstitial monitoring)
- “Site assessment” (to specify that includes any investigation of the environment, including “site checks”)
- “Site check” (to specify that is a type of “site assessment”)
- “Tightness testing” (to clarify that includes testing the tightness of any UST system component (not just tanks and piping))
- “Under-dispenser containment” (to clarify that must be designed to prevent leaks from reaching the environment, consistent with definitions of “release” and “release detection”)
- “Underground storage tank” (to eliminate duplicative statement that excludes exempt UST systems; the applicability of the rule to UST systems is set forth in WAC 173-360A-110, not in this definition)
- “Upgrade” (to clarify includes release detection equipment)

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Part 2 – Administration and enforcement

Licensing and Fees

- Incorporated licensing facility compliance tag requirements for UST systems specified in RCW 90.76.020(4) and (5). Processes reflect current practice under the statute.
- Eliminated requirement that owners must pay tank fees after an UST system has undergone permanent closure or a change-in-service until any releases have been cleaned up.
- Incorporated changes to the state tank fee authorized under RCW 90.76.090 since the rule was last amended.

Reporting

- Updated list of changes and services to UST systems that must be reported based on changes elsewhere in the rule (such as new operation and maintenance testing and inspections).
- Changed process for certifying and reporting installations of UST systems and tanks. Installation checklists must be submitted with license application.
- Added site evaluations for vapor and groundwater monitoring to the type of services requiring submission of a report.
- Changed reporting requirements for sellers:
 - Eliminated requirement that persons who sell property containing UST systems must notify buyer of licensing requirements. Persons who sell tanks, whether new or installed, must still notify buyer.
 - Added requirement that persons who lease tanks must notify lessee.

Recordkeeping

- Updated list of records that must be maintained based on changes elsewhere in the rule.
- Eliminated specific requirement about where records must be maintained. Clarified that records only need to be made available for inspection upon request.
- Eliminated requirement that permanent closure records must be maintained since such records must already be submitted to Ecology.
- Added requirement that records must be transferred upon changes in ownership or operation.

Compliance monitoring

- Added requirement that Ecology's compliance monitoring program must be consistent with, and no less stringent than, the program required by the underground storage tank compliance act of 2005, consistent with changes to RCW 90.76.005 and 90.76.020.

Enforcement

- To comply with state program approval requirements in §281.42, clarified how the state will ensure public participation in the enforcement process.

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Part 3 – Installation and performance standards

Installation of UST systems and components

- Added requirements that Ecology must be notified of changes to the planned start date for installing an UST system, or a tank or piping run, at least three business days before starting installation.
- Consistent with §280.20(d) of the federal rule, clarified that installation requirements apply to all UST system components (not just tanks and piping).
- Consistent with §280.20(d) and §280.251(d) of the federal rule, updated the codes of practice that may be used to comply with installation requirements.
- Added installation requirements for used tanks to ensure the tanks meet performance standards.
- Added requirement that installation records must be maintained until the UST system is permanently closed or undergoes a change-in-service, consistent with existing requirement for repairs to UST systems.

Performance standards for new UST systems and components

- Consistent with §280.20(a)(3) of the federal rule, changed tank material classifications (from “steel-fiberglass-reinforced-plastic composite tanks” to “steel tanks clad or jacketed with a non-corrodible material”).
- Consistent §§280.20(a) and (b) and §280.251(b) of the federal rule, updated the codes of practice that may be used to comply with the performance requirements for tanks and piping.
- Consistent with §280.252(a) of the federal rule, added exemptions from secondary containment requirements for airport hydrant systems and for field-constructed tanks > 50,000 gallons.
- Added requirement that under-dispenser containment (UDC) must be factory-built. The requirement only applies to UDC installed or replaced after effective date of rule.
- Eliminated Ecology’s authority to approve alternative spill prevention equipment that does not meet the specified performance standards. The standards are sufficiently general.
- Consistent with §280.20(c)(3) of the federal rule, specified that flow restrictors in vent lines may no longer be used to comply with overfill prevention requirements when such equipment is installed or replaced after effective date of the rule. Unlike the federal rule, also added requirement that flow restrictors in vent lines needing repairs must be replaced with another type of overfill prevention.

Upgrade requirements for existing UST systems

- Consistent with §280.21 of the federal rule, added requirement that existing UST systems not meeting upgrade requirements must be permanently closed, unless the department determines otherwise on a case-specific basis. To allow upgrades, the tanks must at least be in compliance.
- Consistent with §280.21(b)(1)(ii) of the federal rule, added requirement that lined tanks must be permanently closed if the lining cannot be repaired.
- Consistent with §280.21(b) of the federal rule, maintained list of historical codes of practice for upgrading tanks.

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- Added requirement that upgrade records must be maintained until the UST system is permanently closed or undergoes a change-in-service.

Upgrade requirements for previously deferred UST systems

- Consistent with §§280.251 and 280.252 of the federal rule, added upgrade requirements for previously deferred UST systems. Except as follows, the requirements are the same as in the federal rule.
 - Added requirement that upgrade records must be maintained until the UST system is permanently closed or undergoes a change-in-service. The federal rule does not require records of upgrades to be maintained, except for repairs.

Performance standards for partially exempt UST systems

- Consistent with §280.11 of the federal rule, updated the codes of practice that may be used as guidance for complying with performance standards.

Compatibility requirements for UST systems

- Consistent with §280.32 of the federal rule, added compatibility demonstration requirements for UST systems storing regulated substances containing greater than ten percent ethanol or twenty percent biodiesel. Except as follows, the requirements are the same as in the federal rule.
 - Specified that records must be maintained “until the system is permanently closed or undergoes a change-in-service.” The federal rule requires such records to be maintained “for as long as system used to store the regulated substance.”

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Part 4 – Operation and maintenance

Transfer of regulated substances

- Consistent with §280.30 of the federal rule, updated the codes of practice that may be used to comply with spill and overfill control requirements.
- Added requirement that product deliverers must comply with spill and overfill control requirements.
- Added requirement that product deliverers and waste oil collectors must report any spill or overfill of regulated substances immediately to the owner or operator.

Changes in regulated substances

- Consistent with §280.32 of the federal rule, changed deadline for notifying Ecology of changes in regulated substances stored in UST system (from 30 days after to 30 days before) when the substances contain greater than ten percent ethanol or twenty percent biodiesel.

Operation and maintenance walkthrough inspections

- Consistent with §280.36 and §280.252(c) of the federal rule, added walkthrough inspection requirements. Except as follows, the requirements are the same as in the federal rule.
 - Specified that forms used to document walkthrough inspections must be provided by Ecology or in the code of practice used to perform inspection. The federal rule does not specify.
 - Specified that records of walkthrough inspections must be maintained for three years. The federal rule specifies one year.
 - Specified that walkthrough inspections must begin one year after effective date. The federal rule specifies three years after effective date.

Operation and maintenance of corrosion protection

- Consistent with §280.31 of the federal rule, updated the codes of practice that may be used to comply with cathodic protection testing requirements.
- Changed record retention for cathodic protection tests from last two tests, which is the same as the federal rule, to six years (two compliance inspections).
- Changed record retention for rectifier inspections from last three inspections, which is the same as the federal rule, to three years (one compliance inspection).

Operation and maintenance of internal linings

- Consistent with §280.21(b) of the federal rule, updated the codes of practice that may be used to comply with internal inspection requirements for lined tanks.
- Consistent with §280.21(b)(1)(ii) of the federal rule, added requirement that lined tanks must be permanently closed if the lining cannot be repaired.

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Operation and maintenance of containment sumps and spill prevention equipment

- Consistent with §280.35 of the federal rule, added operation and maintenance requirements for containment sumps used for interstitial monitoring of piping and spill prevention equipment. Except as follows, the requirements are the same as in the federal rule.
 - Specified that tightness tests must be performed by certified service provider. The federal rule does not specify who may perform tests.
 - Clarified that low liquid level integrity tests may be used to meet the testing requirements for containment sumps, as approved by EPA under the federal rule.
 - Specified that tightness tests must be reported. The federal rule does not require reporting.
 - Specified that records of periodic monitoring must be retained for three years (one inspection cycle). The federal rule requires such records to be maintained for as long as the equipment is periodically monitored.
 - Specified that records of tightness tests must be retained for six years (two inspection cycles). The federal rule requires such records to be maintained for three years.
 - Specified that compliance dates for previously installed UST systems depends on whether the identification number on the facility compliance tag is even (two years after effective date) or odd (three years after effective date). The federal rule requires compliance within three years. This is intended to avoid having the deadline for testing and inspections by service providers of all previously installed UST systems (more than 9,000) be at the same time, which has been an implementation problem in other states.

Operation and maintenance of overfill prevention equipment

- Consistent with §280.35 of the federal rule, added operation and maintenance requirements of overfill prevention equipment. Except as follows, the requirements are the same as in the federal rule.
 - Specified that inspections must be performed by a certified service provider. The federal rule does not specify who may perform the inspections.
 - Specified that inspections must be reported. The federal rule does not require reporting.
 - Specified that records of inspections must be retained for six years (two inspection cycles). The federal rule requires such records to be maintained for three years.
 - Specified that compliance dates for previously installed UST systems depends on whether the identification number on the facility compliance tag is even (two years after effective date) or odd (three years after effective date). The federal rule requires compliance within three years. This is intended to avoid having the deadline for testing and inspections by service providers of all previously installed UST systems (more than 9,000) be at the same time, which has been an implementation problem in other states.

Operation and maintenance of release detection equipment

- Consistent with §280.40(a)(3) and §280.45(b)(1) and (c) of the federal rule, added operation and maintenance requirements for release detection equipment. Except as follows, the requirements are the same as in the federal rule.

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- Specified that tests must be performed by a certified service provider. The federal rule does not specify who may perform the tests.
- Specified that tests must be reported. The federal rule does not require reporting.
- Specified that schedules of required calibration and maintenance must be maintained for as long as the equipment is used. The federal rule requires such records to be maintained for five years.

Repairs of UST systems

- Consistent with definition of “repair” in §280.12 of the federal rule, clarified that “repairs” include any action to restore to proper operating condition any UST system component that is not operating properly.
- Consistent with §280.33(a) of the federal rule, updated the codes of practice that may be used to comply with requirements for performing repairs.
- Added requirement that flow restrictors in vent lines needing repairs may not be used to comply with the overfill prevention requirements and must be replaced with another type of overfill prevention.
- Consistent with §280.21(b)(1)(ii) of the federal rule, added requirement that tanks upgraded with liners must be permanently closed if the lining cannot be repaired.
- Added requirement that cathodically protected tanks or piping must be tightness tested if the cathodic protection system was repaired.
- Consistent with §280.33(d) of the federal rule, added requirement that repaired secondary containment areas of tanks and piping used for interstitial monitoring must be tightness tested within thirty days of the repair. Except as follows, the requirements are the same as in the federal rule.
 - Specified that tests must be performed by a certified service provider. The federal rule does not specify who may perform such tests.
 - Specified that tests must be reported. The federal rule does not require reporting.
 - Specified that records of tests must be retained for three years (one inspection cycle). The federal rule does not clearly specify record retention for such tests.
- Consistent with §280.33(d) of the federal rule, added requirement that repaired containment sumps used for interstitial monitoring of piping must be tested within thirty days of the repair.
- Added requirement that repaired under-dispenser containment sumps must be tightness tested within thirty days of the repair even when they are not used for interstitial monitoring of piping. The federal rule does not require testing upon repair of such sumps.
- Consistent with §280.33(f) of the federal rule, added requirement that repaired spill prevention equipment must be tested within thirty days of the repair.
- Consistent with §280.33(f) of the federal rule, added requirement that repaired overfill prevention equipment must be inspected within thirty days of the repair.
- Added requirement that electronic or mechanical repaired release detection equipment must be tested within thirty days of the repair. The federal rule does not require such testing upon repair.

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Part 5 – Operator training

- Consistent with the definition of “Class C operator” in §280.12 of the federal rule, eliminated requirement that a Class C operator must be an employee.
- Consistent with §280.242 of the federal rule, added equipment compatibility demonstrations to the training requirements for Class A and Class B operators.
- Consistent with §280.242 of the federal rule, added new operation and maintenance requirements to the training requirements for Class A and Class B operators.
- Eliminated exemption from retraining requirements for Class A and Class B operators retrained annually.
- Added operation and maintenance of containment sumps to the list of what must be included in operation and maintenance plans, consistent with new requirements.

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Part 6 – Release detection

General requirements

- Consistent with §280.40(c) of the federal rule, made closure requirement applicable to all UST systems, not just “existing UST systems.”
- Clarified requirement that all release detection equipment and statistical inventory reconciliation methods must be third-party certified as capable of meeting applicable performance standards.
- Clarified requirement that release detection equipment must be operated in accordance with any conditions specified in third-party certifications.
- For each release detection method, clarified when a release is suspected based on test results.

General requirements – recordkeeping

- Changed retention period for third-party certification records from five years to as long as the equipment or method is used. The retention period in the federal rule is five years.
- Consistent with §280.45(a) of the federal rule, specified that site evaluation records used for vapor and groundwater monitoring methods must be maintained for as long as the method is used. Unlike the federal rule, made requirement apply on effective date of rule instead of within three years of effective date.
- Consistent with §280.45(b)(2) and (3) of the federal rule, changed recordkeeping requirements for release detection results. Except as follows, the requirements are the same.
 - Changed retention period for tank and line tightness test results from the last test to the last two test, including when performed on previously deferred UST systems. The federal rule requires the last test result.
 - Specified that retention period for results from vapor monitoring using a tracer compound every two years is the last two test results. The federal rule requires the last test result.
 - Changed retention period for results from all other release detection methods, including when performed on previously deferred UST systems, from five years to three years. The federal rule requires the last test result.

Release detection methods for tanks

- Consistent with §280.20 of the federal rule, specified that previously deferred UST systems installed after effective date of rule must be interstitially monitored.
- To be consistent with §280.43 of the federal rule, eliminated monthly manual tank gauging as an allowable method of release detection, either alone or in combination with tank tightness testing. This method was only allowed for emergency power generator UST systems.
- Consistent with §280.43(b)(5) of the federal rule, changed the applicability of the combined method of weekly manual tank gauging and tank tightness testing.
- Consistent with §280.43(b)(5) of the federal rule, changed the applicability of weekly manual tank gauging as a sole method of release detection.
- For interstitial monitoring method, eliminated requirements for UST systems that are secondarily contained using secondary barriers or internally-fitted liners. According to Ecology’s

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database, there are no UST systems in the state using secondary barriers to meet regulatory requirements. Double-walled tanks are defined to include tanks with internally fitted liners. And secondary barriers will no longer be allowed.

- Consistent with §280.252(d)(1) of the federal rule, incorporated additional release detection methods for certain previously deferred UST systems installed before effective date of the rule (those systems not requiring secondary containment).

Release detection methods for piping

- Consistent with §280.20 of the federal rule, specified that previously deferred UST systems installed after effective date of rule must be interstitially monitored.
- Added electronic line leak detection as a monthly method for pressurized piping. The method is currently allowed as an “other method” of release detection. Ecology’s database shows that eight UST systems are using this method as their primary method.
- For interstitial monitoring method, eliminated requirements for UST systems that are secondarily contained using secondary barriers or internally-fitted liners. See previous note under release detection methods for tanks.
- Consistent with §280.252(d)(2) of the federal rule, incorporated additional release detection methods for certain previously deferred UST systems installed before effective date of the rule (those systems not requiring secondary containment).

Weekly manual tank gauging

- Added requirements that equipment must be able to measure water levels, and that water levels must be measured at least once each month.
- Consistent with §280.43(b) of the federal rule, changed tank criteria and test standards.

Automatic tank gauging

- Consistent with §280.43(d), added specific requirements for automatic tank gauging based on the mode used to perform the test (in-tank static test or continuous in-tank leak detection).

Monthly electronic line leak detection

- Specified that electronic line leak detection may be used as a monthly method, and specified requirements for use of the method. The method is allowed under the current rule as an “other method.”

Interstitial monitoring

- Consistent with §280.50(b) of the federal rule, added criteria regarding presence of any liquid in interstitial space.

Vapor and groundwater monitoring

- Consistent with §280.45(a) of the federal rule, specified who may perform site evaluations and how evaluations must be reported.

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Statistical inventory reconciliation (SIR)

- Consistent with §280.43(h) of the federal rule, changed performance standards for SIR.
- Added deadline for submission of inventory control data to SIR vendors.
- Changed deadline for SIR results to be submitted to owners and operators.
- Consistent with §280.43(h), changed thresholds for suspected release based on SIR results.

Other methods

- Added monthly electronic line leak detection and line tightness testing as baselines for other methods.

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Part 7 – Release reporting, confirmation, and cleanup

Reporting of suspected releases

- Eliminated Ecology’s authority to specify a period other than 24 hours for reporting suspected releases on a case-specific basis.
- To be consistent with §280.50(a) of the federal rule, added presence of vapors as an example of environmental conditions that must be reported as a suspected release.
- Consistent with §280.50(b) of the federal rule, added presence of liquid in interstitial space as an example of an unusual operating condition that must be reported as a suspected release.
- Consistent with §280.50(b)(3), added removal of liquid from interstitial space as condition for not reporting a suspected release based on unusual operating conditions.
- Consistent with §280.50(c) of the federal rule, added monitoring alarms as an indication of a suspected release.
- Consistent with §280.50(c)(4) of the federal rule, added example of a false alarm from a release detection method.
- Consistent with §280.50(c)(2) of the federal rule, clarified conditions under which a suspected release based on interstitial monitoring results does not need to be reported.

Releases suspected by department

- Clarified that department may require investigation of suspected release based on the presence of regulated substances at the UST facility, not just outside of the UST facility.
- Consistent with §280.50(a) of the federal rule, added presence of vapors as an example of environmental conditions under which the department may require investigation of a suspected release.

Confirmation of suspected releases

- Consistent with §280.52(a) of the federal rule, added option of testing the secondary containment of tanks and piping in place of tank or line tightness test.
- Consistent with §280.52(a) of the federal rule, replaced term “leak” with “release” to reflect the fact that leaks from secondarily contained UST systems may not result in releases.
- Added requirement that release detection equipment must be tested if a system test indicates a leak or release, and the suspected release was not based on release detection.
- Clarified next steps based on results of site check when results do not indicate a release that poses a threat. Also clarified that only releases that may pose a threat to human health or the environment require remedial action.

Site assessment requirements

- Incorporated into the rule minimum requirements for site assessments from the guidance document referenced in the current rule. Except as follows, the requirements are the same.
 - For UST systems in operation, temporarily closed, or undergoing a change-in-service, changed the minimum number of soil samples around tanks from three or five (based on size of tank), to two or more (based on number of tanks in excavation zone).

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- For UST systems undergoing permanent closure in place, changed the minimum number of soil samples around tanks from three or five (based on size of tank), to four or more (based on number of tanks in excavation zone).
- For UST systems undergoing permanent closure by removal, changed the minimum number of soil samples within tank excavation zone from three or five (based on size of tank), to five.
- For UST systems in operation, temporarily closed, or undergoing a change-in-service, increased the minimum number of soil samples around sets of connected dispensers from one to two.
- Changed deadline for service providers to report confirmed releases to the department from 72 hours to 24 hours to be consistent with reporting requirements for owners and operators.

Reporting and cleanup of spills and overfills

- To be consistent with the state's cleanup rules in Chapter 173-340 WAC, changed the thresholds for when spills or overfills of petroleum or hazardous substances resulting in releases to the environment must be reported to Ecology and cleaned up under the cleanup rules. Only spills or overfills resulting in releases that may pose a threat to human health or the environment must be reported and cleaned up under the cleanup rules. Other spills and overfills only need to be reported if they are not contained and cleaned up as specified within 24 hours.

Reporting and cleanup of confirmed releases

- Clarified that only releases that may pose a threat to human health and the environment must be reported to Ecology and cleaned up under the state's cleanup rules in Chapter 173-340 WAC.

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Part 8 – Closure

Temporary closure of UST systems

- Clarified that, if an UST system is temporarily closed for more than ninety days, then required closure activities must be completed and reported to the department within one hundred and twenty days. If there are no UST systems in operation at the facility, this includes returning the facility compliance tag.
- Added requirement that UST systems temporarily closed for more than ninety days must either be emptied or the amount of regulated substance remaining in the system must be measured.
- Clarified that Ecology must be notified within thirty days of an UST system being emptied (as change in the status of an UST system).
- Eliminated “0.3 percent by weight of the total capacity” as a criteria for determining whether an UST system is empty.
- Consistent with §280.70(a) of the federal rule, specified that spill and overfill prevention equipment does not need to be operated and maintained during temporary closure.
- Consistent with §280.70(a) of the federal rule, specified that release detection equipment and containment sumps do not need to be operated and maintained during temporary closure if the UST system is empty.
- To be consistent with §280.113 of the federal rule, added requirement that financial responsibility must be maintained during temporary closure. However, unlike the federal rule, specified that financial responsibility does not need to be maintained during temporary closure if the UST system is emptied and a site assessment is completed after the system is emptied.
- Clarified that UST systems temporarily closed more than twelve months must be permanently closed only if the tanks or piping do not meet applicable performance standards or upgrade requirements.
- Added requirement that a preliminary evaluation of the structural integrity of a tank must be completed before Ecology will authorize deposit of regulated substances needed for a tightness test of an empty temporarily closed UST system.
- For UST systems temporarily closed more than ninety days, added requirement that any operation and maintenance tests or inspections suspended during temporary closure must be performed before returning an UST system to operation.
- Clarified requirements for notifying Ecology after returning an UST system temporarily closed more than ninety days to operation.

Permanent closure and change-in-service of UST systems

- Clarified that permanent closure requirements apply to circumstances when only a portion of an UST system (tank or piping run) is being closed.
- Added requirement that Ecology must be notified of any change in the planned start date for permanent closure or change-in-service at least three business days before starting.
- Eliminated requirement that Ecology must approve extension to ninety-day deadline for completing permanent closure or change-in-service within the ninety-day period.
- Consistent with §280.71(c) of the federal rule, updated the codes of practices that may be used to comply with decommissioning requirements.

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- Eliminated requirement that permanent closure and change-in-service records must be maintained since such records must be submitted to Ecology.
- Eliminated exception to site assessment requirement in cases where vapor or groundwater monitoring is used as a release detection method and monitoring does not indicate a release.
- Clarified that facility compliance tags (not permits) must be returned to Ecology if there are no UST systems in operation at the facility.

Previously closed UST systems

- Consistent with §280.252(e) of the federal rule, added previously deferred UST systems closed before effective date of rule to those systems that must comply with the requirements governing previously closed UST systems.
- Clarified that UST systems closed before becoming subject to regulation must be permanently closed in accordance with requirements in this chapter if any additional closure activities are performed, such as removal.

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Part 9 – Service providers

General requirements

- Clarified that UST system services may be performed by or under the direct supervision of a service provider. Made clarification throughout rule.

Performance of services

- Clarified which UST system services require a service provider (which is also specified throughout the chapter) and the types of certification required to perform those services.
- Specified that the following services may be performed by a service provider certified in tightness testing or installation/repair:
 - Testing of containment sumps used for interstitial monitoring.
 - Testing of spill prevention equipment.
 - Testing of release detection equipment.
 - Inspections of overfill prevention equipment.
 - Testing of secondary containment areas of tanks or piping used for interstitial monitoring.

Certification of service providers

- Consistent with §280.45(a) of the federal rule, added being licensed as a professional hydrogeologist in Washington state as a method of being certified as a site assessor, provided the person is able to demonstrate competence in site assessment by means of examination, experience, or education.
- Added certification by the Steel Tank Institute as a method of being certified as a cathodic protection tester.

Responsibilities of service providers

- Added requirement that, when site assessments are performed around tanks or piping undergoing permanent closure, service providers must be present when and where the tanks or piping are removed from the ground.
- Clarified how quickly service providers must report non-compliance to owners or operators (within 24 hours).
- Changed deadline for service providers to report confirmed releases to Ecology from within 72 hours to within 24 hours to make consistent with reporting requirements for owners and operators.

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Part 10 – Financial responsibility

Applicability

- Changed applicability of financial responsibility requirements to include hazardous substance UST systems, consistent with legislative direction in authorizing state statute in RCW 90.76.020(1)(g). All such systems already have qualifying financial assurances.
- Consistent with §280.90(d) of the federal rule, changed applicability of financial responsibility requirements to include aboveground storage tanks associated with airport hydrant fuel distribution systems and UST systems with field-constructed tanks.

Definitions and usage

- Consistent with §280.92 of the federal rule, moved definitions of terms used only in Part 10 (financial responsibility) from the general definition section in WAC 173-360A-150.
- Consistent with §280.92 of the federal rule, changed definition of “accidental release” to clarify that owners and operators are required to have financial responsibility for releases arising from the operating USTs (including releases due to filling USTs and releases occurring at dispensers).
- Consistent with §280.92 of the federal rule, added definition of term “chief financial officer” to implement the local government financial assurance options also added from the federal rule.
- Consistent with §280.92 of the federal rule, added definition of term “local government” to implement the local government options also added from the federal rule.
- Consistent with §280.92 of the federal rule, eliminated definition of term “petroleum marketing firms.” The term, which was used to set compliance dates for existing UST systems, is no longer used in the rule.
- Consistent with §280.92 of the federal rule, added definition of term “substantial government relationship” to implement the local government options also added from the federal rule.
- Replaced use of federal term “corrective action” with state term “remedial action” to make usage consistent with the state cleanup rules in Chapter 173-340 WAC, which governs the cleanup of releases from UST systems.
- Replaced use of term “director” with “department” throughout this Part of the rule.

Period of financial responsibility

- Consistent with §280.113 of the federal rule, specified that financial responsibility must be maintained until the UST system is permanently closed or undergoes a change-in-service.
- Unlike the federal rule, specified that financial responsibility does not need to be maintained during temporary closure if the UST system is emptied and a site assessment is completed after the system is emptied.
- Unlike the federal rule, specified that financial responsibility does not need to be maintained after permanent closure or change-in-service until any releases from the UST system are cleaned up.

State fund financial assurance option

- Eliminated requirements for state fund option since there is no such option in Washington state.

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Local government financial assurance options

- Consistent with the federal rule, added local government options as allowable financial assurance mechanisms for local governments. Incorporated applicable requirements and boilerplates from the federal rule throughout this Part of the rule.

Recordkeeping by owners and operators

- Eliminated requirement that specifies where financial responsibility records must be maintained. Records must still be made available upon request by the department.

Recordkeeping by owners and operators

- Updated financial responsibility certification requirements to make consistent with changes in licensing procedures based on changes in RCW 90.76.020(4) of the authorizing state statute. The owner or operator must provide proof of financial responsibility to the Department of Revenue (DOR) upon application for a license. DOR must also be notified of any substitution of financial assurances and any cancellation or termination of financial assurances. DOR will not renew licenses without current proof of financial responsibility.

Financial test and bond rating test requirements

- Clarified by when Ecology must be notified if an owner or operator fails to obtain alternate coverage after it is determined the owner or operator no longer meets the requirements of the applicable financial test or bond rating test, consistent with requirements in WAC 173-360A-1045 (reporting of owners or operators).

Certificates of insurance and endorsement boilerplates

- Added “policy retroactive date” to information that must be included on certificates of insurance and endorsements to insurance policies.

Performance bond and letter of credit boilerplates

- Added reference to state law, which also requires financial assurance.