

CHAPTER 1 SCOPE AND DEFINITIONS

001. APPLICABILITY

The requirements of 40 CFR 280.10 as it existed on July 15, 2015 are adopted and incorporated by reference. These regulations are issued pursuant to the Nebraska Petroleum Products and Hazardous Substances Storage and Handling Act (Rev. Neb. Stat. § 81-15, 117-127), and are subject to enforcement, penalties and fines as set forth therein.

Copies of the federal regulations are on file at the office of the Nebraska State Fire Marshal, 246 South 14th Street, Lincoln, NE or at the office of the Secretary of State, Division of Rules and Regulations in the Nebraska State Capitol also the following link: <https://www.ecfr.gov>

002. EXCLUSIONS

The requirements of 40 CFR 280.11 as it existed on July 15, 2015 are adopted and incorporated by reference.

003. DEFINITIONS

The requirements of 40 CFR 280.12 as it existed on July 15, 2015 are adopted and incorporated by reference.

APPROVED

OCT 01 2021

Pete Ricketts
PETE RICKETTS
GOVERNOR

BD



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DOUGLAS J. PETERSON
ATTORNEY GENERAL

SEP 22 2021

BY *[Signature]*
ASSISTANT ATTORNEY GENERAL

CHAPTER 2 NOTIFICATION REQUIREMENTS

The requirements of 40 CFR 280.22 as it existed on July 15, 2015 are adopted and incorporated by reference.



CHAPTER 3 CONTRACTOR LICENSING AND CERTIFICATION

The requirements of 40 CFR 280.20(e)(2) as it existed on July 15, 2015 are adopted and incorporated by reference.

001. INSTALLER/CLOSER LICENSE

No person, association, partnership or corporation will contract for the installation or permanent closure of an UST system without first obtaining a license from the State Fire Marshal.

001.01 Every underground storage tank installation/closure contractor will employ at least one person certified by the State Fire Marshal as a tank installer/closer. A certified person will personally supervise all tank installations and closures.

001.02 Every underground storage tank installation/closure contractor will maintain a minimum of \$500,000 of general liability insurance which includes coverage relating to the closure and/or installation of underground storage tanks.

002. INSTALLER/CLOSER CERTIFICATION

No person will install or close or supervise the installation or closure of an underground storage tank without prior certification by the State Fire Marshal as to the qualifications of such persons to install or close tanks.

002.01 Qualification for certification will be proved by successful completion of a written examination which measures the applicant's technical knowledge and familiarity with state regulations.

002.02 Certification will be renewed, and the certification examination will be successfully completed every 3 years from date of certification.

002.03 The tank installer and tank closer certification tests will be given monthly at different locations throughout the State. An applicant who has properly applied for an examination may take the examination unsuccessfully a maximum of 2 times. After two unsuccessful attempts, a person must wait a minimum of 6 months before re-applying for certification.

003. CATHODIC PROTECTION TESTER CERTIFICATION AND NOTIFICATION

003.01 All persons who conduct cathodic protection testing on underground storage tank systems will be certified in a manner acceptable to the State Fire Marshal and will be able to provide proof that the minimum requirements in the definition of a cathodic protection tester of Chapter 1 003. have been met.

003.01A. Qualification for certification will be proven by successful completion of an examination which measures the applicant's technical knowledge.



003.01B. In addition to the examination required in 003.01A, of this Chapter the applicant will successfully complete a written examination administered by the State Fire Marshal which measures the applicant's knowledge of state underground storage tank (UST) requirements.

003.01C. Proof of successful completion of the education requirement of 003.01 of this Chapter will be submitted to the State Fire Marshal prior to taking the examination required by 003.01B of this Chapter and prior to conducting any required cathodic protection testing on underground storage tanks and/or associated piping.

003.01D. Certification will be renewed, and the certification examination will be successfully completed at least every 3 years from date of last certification.

003.01E All certified testers will notify the State Fire Marshal Agency of all failed tests within 24 hours or the next business day.

003.02 The Cathodic protection test will be given monthly at different locations throughout the State. An applicant who has properly applied for an examination may take the examination unsuccessfully a maximum of 2 times. After two unsuccessful attempts, a person must wait a minimum of 6 months before re-applying for certification.

004. DENIALS AND REVOCATIONS

004.01 The State Fire Marshal may refuse to renew or may revoke or suspend a license or certificate for any of the following reasons:

004.01A. Gross incompetence or gross negligence in the installation or closure of an underground storage tank.

004.01B. Use of false evidence or misrepresentation in an application for a license or certificate.

004.01C. Knowingly violating the rule or regulations adopted and promulgated under Title 159, Nebraska Administrative Code.

004.02 Before the State Fire Marshal denies an application for a license or certificate, the affected person will be given notice and opportunity for a hearing under procedures established by the State Fire Marshal. Upon receipt of the notification, any person aggrieved by the denial or revocation of a license or certificate may request a hearing. Any person aggrieved by a final decision of the State Fire Marshal may appeal such action pursuant to State Statutes Sections 84-917 to 84-919.

CHAPTER 4 DESIGN AND INSTALLATION STANDARDS FOR NEW UST SYSTEMS

001. DESIGN STANDARDS AND NEW TANK INSTALLATION

The requirements of 40 CFR 280.20(a)-(d) and (f) as they existed on July 15, 2015 are adopted and incorporated by reference.

001.01 All underground storage tanks, or piping connected to any such tanks that are installed or replaced after September 19, 2007 will be secondarily contained and the interstice will be monitored for leaks. This provision will include the installation of tank sumps and under-dispenser containment sumps.

001.01A. Tank and piping secondary containment will be compatible with the substance stored in the tank system.

001.01B. Interstitial monitoring will be provided for all new tanks and piping installed after September 19, 2007.

001.01C. Secondary containment systems must be designed, constructed and installed to:

001.01C1. Contain regulated substances released from the tank system until they are detected and removed;

001.01C2. Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

001.01C3. Be checked for evidence of a release at least every 30 days.

001.01D. Double-walled tanks must be designed, constructed, and installed to:

001.01D1. Contain a release from any portion of the inner tank within the outer wall; and

001.01D2. Detect the failure of the inner wall.

001.01E. External liners (including vaults) must be designed, constructed, and installed to:

001.01E1. Contain 100 percent of the capacity of the largest tank within its boundary;

001.01E2. Prevent the interference of precipitation or ground-water intrusion with the ability to contain or detect a release of regulated substances; and



001.01E3. Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).

001.01F. Underground piping, including "safe suction" piping, must be equipped with secondary containment that satisfies the requirements of 001.01C above (e.g., trench liners). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in accordance with 004 of Chapter 7.

001.02 All new tanks, their welds, seams, and connecting fittings, must be tested prior to installation for tightness using standard engineering practices.

001.02A. Pre-installation tank testing will be in accordance with Petroleum Equipment Institute/RP 100 or the tank manufacturer's installation instructions.

001.02B. All new single-wall tanks installed in excavation liners will be tested with 3 to 5 psig of air pressure. Gauges must have a scale that will permit detection of small changes in pressure. A gauge with a maximum limit of 10 to 15 psig is required. The test will include the application of a soap solution over the entire surface of the tank and its fittings, followed by careful inspection for bubbles. The soap solution should be applied uniformly with a mop or spray.

001.02C. All new double-walled tanks will be tested with 3 to 5 psig of air pressure, unless prohibited by manufacturer's instructions. Gauges must have a scale that will permit a detection of small changes in pressure. A gauge with a maximum limit of 10 to 15 psig is required. The test will include pressurizing the inner tank from 3 to 5 psig then sealing the inner tank disconnecting the external air supply and monitoring the pressure for one hour. The interstice will be tested using the air from the inner tank. A second gauge, as described above, must be used in monitoring the interstice. The entire surface of the tank will be soaped followed by a careful inspection for bubbles. The soap solution should be applied uniformly with a mop or spray.

001.02D. All defects or scratches in the tanks coating will be repaired in a manner approved by the manufacturer.

001.03 Precaution will be taken to prevent tank floating during the installation process. Fuel will not be used as a ballast.

001.04 Backfill material will be pea gravel, crushed rock, or clean sand free of cinders, stones, and any other foreign material. Tank installation instructions may require specific aggregate sized crushed rock or gravel. Instructions may also specify mechanical compaction or layered placement of bedding and backfill. The installation instructions provided by the manufacturer must always be consulted prior to installation.

001.04A. All product lines will slope a minimum of 1/8 of inch per foot towards the tank and be installed in a single trench between the tank area and pump island. All vent lines will slope a minimum of 1/8 inch per foot towards the tank and be installed in a single trench.

001.04B. All unions and fittings will be a minimum of 250 pounds. All joints, damaged pipe coating or unprotected threads will be wrapped or coated with a material approved by the manufacturer.

001.04C. All new product lines will be pneumatically tested for tightness with air pressure. All joints, seams and connections will be soaped to detect leakage. For non-metallic piping, the joints and connections will be soaped. The test will be maintained for a minimum of 1 hour, and all soaped areas will be visually inspected for bubbles or any other indication of a leak. Piping will be tested at not less than 50 psig at the highest point of the system. Any loss of pressure or appearance of bubbles will constitute failure of the test.

001.04D. Vent and fill lines must be coated but need not be cathodically protected. Metallic product lines must be cathodically protected.

001.05 Underground storage tank systems storing hazardous substances will meet the requirements of this Chapter 4.

001.06 All used steel and fiberglass reinforced plastic tanks will require the manufacturer's certification for re-installation. Installations will follow all procedures of this chapter.

001.07 Owners and Operators must have the following records submitted to the State Fire Marshal's Office pertaining to all new tanks and piping installations prior to placing UST system into operation.

001.07A. Four Page Notification Form (Provided by Fire Marshal Office);

001.07B. As Built Drawings;

001.07C. Post Installation tank and piping tests; and

001.07D. Manufacturers install checklist.

CHAPTER 5 REQUIREMENTS FOR EXISTING UST SYSTEMS

The requirements of 40 CFR 280.21 as it existed on July 15, 2015 are adopted and incorporated by reference.



CHAPTER 6 GENERAL OPERATING REQUIREMENTS FOR EXISTING UST SYSTEMS

001. SPILL AND OVERFILL CONTROL

The requirements of 40 CFR 280.30 as they existed on July 15, 2015 are adopted and incorporated by reference.

002. OPERATION AND MAINTENANCE OF CATHODIC PROTECTION

The requirements of 40 CFR 280.31 as they existed on July 15, 2015 are adopted and incorporated by reference.

002.01A. Frequency. All cathodic protection systems must be tested within 6 months of installation; and

002.01A1. Impressed current cathodic protection systems will be tested annually thereafter; and

002.01A2. Galvanic or sacrificial anode cathodic protection systems will be tested at least every 3 years thereafter.

003. COMPATIBILITY

The requirements of 40 CFR 280.32 as they existed on July 15, 2015 are adopted and incorporated by reference.

004. REPAIRS ALLOWED

The requirements of 40 CFR 280.33(a) – (e) and (g) as they existed on July 15, 2015 are adopted and incorporated by reference.

004.01 Repaired tanks, piping, overfill, and spill prevention equipment must be tested prior to placing system back into service, or 30 days following the date of completion of repair, whichever occurs first.

005. REPORTING AND RECORDKEEPING

The requirements of 40 CFR 280.34 as they existed on July 15, 2015 are adopted and incorporated by reference.

005.01 **Record-keeping.** Owners and operators must maintain the following information;

005.01A. Inventory control or tank gauging records will be kept for 3 years;

005.01B. Documentation of UST system repairs will be kept for the operating life of the UST system;



005.01C. Results of compliance with release detection requirements will be kept for 3 years;

005.01D. Results of the site investigation conducted at permanent closure will be kept as a permanent record;

005.01E. Results of compliance with release prevention requirements in 40 CFR 280.35 and 40 CFR 280.36 will be kept for 3 years; and

005.01F. For spill prevention equipment and containment sumps used for interstitial monitoring of piping not tested every three years, documentation showing that the prevention equipment is double walled and the integrity of both walls is periodically monitored will be maintained for as long as the equipment is periodically monitored.

005.01G Results of compliance with release prevention requirements in 280.35 and 280.36 will be kept for 3 years.

005.02 Reporting All Owners and operators must report within 24 hours or the next business day any failed test results for required testing for release prevention and release detection including but not limited to the following:

005.02A Tank leak test;

005.02B Line leak detector test;

005.02C Line leak pressure tests;

005.02D Spill bucket test;

005.02E Sump testing; and

005.02D Overfill equipment tests.

006. PERIODIC TESTING OF SPILL PREVENTION EQUIPMENT AND CONTAINMENT SUMPS USED FOR INTERSTITIAL MONITORING OF PIPING AND PERIODIC INSPECTION OF OVERFILL PREVENTION EQUIPMENT

The requirements of 40 CFR 280.35 as it existed on July 15, 2015 are adopted and incorporated by reference.

006.01 If a ball float is to be abandoned in place, a drop tube shut off or audible alarm will be set at 85 percent tank capacity to prevent overfill.

007. PERIODIC OPERATION AND MAINTENANCE WALKTHROUGH INSPECTIONS.

The requirements of 40 CFR 280.36 as it existed on July 15, 2015 are adopted and incorporated by reference.

CHAPTER 7 RELEASE DETECTION REQUIREMENTS

001. GENERAL REQUIREMENTS FOR ALL UST SYSTEMS

The requirements of 40 CFR 280.40 as it existed on July 15, 2015 are adopted and incorporated and by reference.

001.01 UST systems larger than 1,100 gallons used to store heating oil are excluded for purposes of all release detection on tanks required in this chapter except that they must perform the manual tank gauging procedures in 40 CFR 280.43(b) on a monthly basis from April 1 to November 1.

002. REQUIREMENTS FOR PETROLEUM UST SYSTEMS

The requirements of 40 CFR 280.41 as it existed on July 15, 2015 are adopted and incorporated by reference.

003. REQUIREMENTS FOR HAZARDOUS SUBSTANCE UST SYSTEMS

The requirements of 40 CFR 280.42 as it existed on July 15, 2015, are adopted and incorporated by reference.

004. METHODS OF RELEASE DETECTION FOR TANKS

The requirements of 40 CFR 280.43 as it existed on July 15, 2015 are adopted and incorporated by reference.

Owners and operators will conduct and record the daily product inventory control requirements as described in 40 CFR 280.43 (a)(1)-(a)(6) for all new and existing UST systems.

[Exception: UST systems eligible for and utilizing manual tank gauging in accordance with 40 CFR 280.43(b), do not need to meet the daily inventory requirement.]

005. METHODS OF RELEASE DETECTION FOR PIPING

The requirements of 40 CFR 280.44 as it existed on July 15, 2015 are adopted and incorporated by reference.

006. RELEASE DETECTION RECORD KEEPING

The requirements of 40 CFR 280.45 as it existed on July 15, 2015 are adopted and incorporated by reference.



CHAPTER 8 REPORTING OF RELEASES AND SUSPECTED RELEASES

001. REPORTING OF RELEASES AND SUSPECTED RELEASES

The requirements of 40 CFR 280.50 as it existed on July 15, 2015 are adopted and incorporated by reference.

002. INVESTIGATION DUE TO OFF-SITE IMPACTS

The requirements of 40 CFR 280.51 as it existed on July 15, 2015 are adopted and incorporated by reference.

003. RELEASE INVESTIGATION AND CONFIRMATION STEPS

The requirements of 40 CFR 280.52 as it existed on July 15, 2015 are adopted and incorporated by reference.

004. REPORTING AND CLEANUP OF SPILLS AND OVERFILLS

The requirements of 40 CFR 280.53 as it existed on July 15, 2015 are adopted and incorporated by reference.

005. INITIAL RESPONSE

The requirements of 40 CFR 280.61 as it existed and July 15, 2015 are adopted and incorporated by reference.

Confirmed or suspected releases of regulated substances from any tank must be reported to the State Fire Marshal and the Department of Environment and Energy (NDEE) within 24 hours by the owner and operator of the tank. The State Fire Marshal and the Department of Environment and Energy (NDEE) can be contacted at their offices during normal working hours and at (402) 479-4921 after hours.

Other Nebraska State Regulations apply to release response and corrective action for UST systems containing petroleum or hazardous substances. These regulations include, but are not limited to the following:

Free product investigation, delineation, and recovery will be addressed through the requirements of NDEE's Title 118, Appendix B.

The site will be fully characterized through the requirements of NDEE's Title 118, Appendix B, and NDEE's Title 126.



CHAPTER 9 FINANCIAL RESPONSIBILITY

The requirements of 40 CFR 280.90 through 280.115 as it existed on July 15, 2015 are adopted and incorporated by reference.

001. All owners and operators whose financial responsibility requirements are not met by the Petroleum Release Remedial Action Cash Fund, (Rev. Neb. Stat. §§ 66-1501 et seq. and 81-15,124) will comply with the federal regulations adopted herein.

002. LENDER LIABILITY

The requirement of 40 CFR 280.200 through 230 as it existed on July 15, 2015 are adopted and incorporated by reference.



CHAPTER 10 OUT-OF-SERVICE UST SYSTEMS AND CLOSURE REQUIREMENTS

001. OUT-OF-SERVICE TANKS

The requirement of 40 CFR 280.70 as it existed on July 15, 2015 are adopted and incorporated by reference.

002. PERMANENT CLOSURE AND CHANGES-IN-SERVICE

The requirement of 40 CFR 280.71 as it existed on July 15, 2015 are adopted and incorporated by reference.

003. ASSESSING THE SITE AT CLOSURE OR CHANGE-IN-SERVICE

The requirement of 40 CFR 280.72 as it existed on July 15, 2015 are adopted and incorporated by reference.; and

003.01 If free product is present on the ground water at the time a tank is removed, sampling of the soil and ground water does not need to be conducted for the assessment report, provided the Department of Environment and Energy is notified and the owner and/or operator begins remedial action in accordance with Neb.Rev.Stat. § 81-15, 123.

003.02 Analysis of samples. Soil and ground water samples taken at time of closure will be analyzed by laboratory methods to detect and quantify the presence of the regulated substances that have been stored in the tank system.

003.02A. Samples will be collected, transported and analyzed using sample collection procedures, instrumentation, and test methodologies approved by the Department of Environment and Energy. At a minimum the following additional requirements must be met:

003.02A1. Test methodology procedures regarding proper handling and preservation of samples will be followed.

003.02A2. Proper chain of custody will be maintained for each sample.

003.02A3. Samples will be immediately sealed in their appropriate containers after collection.

003.03 In-Place Closure Assessment

003.03A. Soil borings must provide the necessary data to document site conditions. The soil borings will be a minimum of two inches in diameter and be completed using a hollow stem auger. Drilling to and sampling of ground water will be performed in accordance with the Department of Health and Human Services' Title 178. Evidence of petroleum contamination in the soils or ground water and the corresponding depth of contamination will be documented in the State



Fire Marshal closure assessment report. Notification of any contamination will be made in accordance with 004.02 of this Chapter.

003.03B. Tank Assessment

003.03B1. One boring will be drilled through the backfill at each end of each tank. If the distance between any of the borings exceeds 25 feet, as measured along the excavation perimeter, a boring midway between the two is necessary.

003.03B2. All borings will continue until evidence of soil contamination is no longer present, at which point a soil sample is collected for laboratory analysis. If evidence of soil contamination continues to ground water, then a sample of ground water for laboratory analysis is also required.

003.03B3. One soil sample will be collected for every 10 feet of boring advancement. If ground water is encountered, one sample of ground water will be collected at the base of each boring. Each ground water and/or soil sample will be analyzed in accordance with 003.02 of this Chapter.

003.03B4. Soil samples will be collected in a manner to minimize disturbance of the soil structure. The predominant soil type of each sample (e.g., clay, sand, gravel) will be recorded separately and submitted on a boring log as an addendum to the closure assessment report.

003.03C. Line Assessment

003.03C1. One boring will be drilled at the point where the product lines leave the tank excavation.

003.03C2. One boring will be drilled within 3 feet of each dispenser island. The borings will be placed in the best estimated down gradient direction of ground water flow.

003.03C3. If the running length of the product line between the borings required in 003.03C(C1) and 003.03C(C2) of this Chapter exceeds 25 feet, additional borings will be placed so borings are equally spaced and there is never more than 25 feet between any borings.

003.03C4. All product line borings will conform to 003.03B2 of this Chapter.

003.03C5. Samples will be collected and analyzed as required in 003.03B3 and 003.03B4 of this Chapter.

003.04 Removal Closure Assessment. All underground storage tanks and all product piping will be inspected for corrosion holes and/or other points of leakage. A description of the inspection methods, and if leakage is verified, a description of the cause and location must be submitted to the State Fire Marshal in the closure assessment report. Notification of any contamination will be made in accordance with 004.02 of this Chapter.

003.04A. Each tank, its associated piping, and dispenser will be visually inspected for holes, cracks, corrosion or any signs of leakage. All welds and seams must be thoroughly scraped and inspected. The capacity and dimensions of each tank will be recorded. Results of these inspections will be documented in the State Fire Marshal closure assessment report.

003.04B. All piping must be exposed and inspected in place.

003.05 Tank Excavation

003.05A. Backfill material will be removed to expose undisturbed native soils at the base of the excavation.

003.05B. The base of the excavation will be inspected for contamination and, if present, the owner/operator has the option to over excavate all areas of contamination until clean soils are encountered. Over excavation done in this manner is subject to Neb.Rev.Stat § 81-15, 123. To verify that soils are free of contamination, soil samples will be collected from the floor of the over excavated basin and analyzed in accordance with 003.02 of this Chapter.

003.05C. The final disposal location of contaminated soil and each tank will be reported on the State Fire Marshal closure assessment report. Soil disposal procedures are subject to Department of Environment and Energy oversight.

003.05D. One sample will be collected at each end of the tank from native soil at the base of the excavation for laboratory analysis. If signs of leakage/contamination are observed, additional native soil samples will be collected at the points of leakage for analysis. If groundwater is encountered and covers the entire excavation basin, one groundwater sample will be collected and analyzed. If groundwater does not cover the entire excavation basin, samples will be collected from the exposed soil as previously stated in this section and analyzed in addition to the groundwater sample. The groundwater and/or soil samples are to be prepared and analyzed in accordance with 003.02 of this Chapter.

003.06 Line Excavation Assessment

003.06A. All product piping will be removed by trenching and exposing the entire length of the lines.

003.06B. The procedures described in 003.04A and 003.04B of this Chapter will be followed.

003.06C. One soil sample will be collected for laboratory analysis every ten (10) feet from the native soil at the base of the piping excavation, beginning at the tank excavation perimeter and extending to the dispensers. If signs of leakage/contamination are observed, additional soil samples will be collected for analysis at the points of leakage. The soil samples are to be prepared and analyzed in accordance with 003.02 of this Chapter.

003.06D. The base of the excavation will be inspected for contamination and, if present, the owner/operator may over excavate according to the procedures in 003.05B and 003.05C of this Chapter.

004. REPORTING REQUIREMENTS

004.01 Certification of Compliance

004.01A. A certification of compliance with Title 159 regulations will be required for every closure or change in service.

004.02 Notification of Release

004.02A. Notification will be made within 24 hours whenever contamination is discovered. The owner/operator will report to the Nebraska Department of Environment and Energy and the State Fire Marshal in accordance with Chapter 8 of this title.

004.02B. When public safety threats are identified during a closure assessment, the State Fire Marshal will be notified immediately.

004.03 Closure Assessment Report

004.03A. The owner/operator is responsible for ensuring the closure assessment report is properly completed and submitted on the appropriate State Fire Marshal reporting forms. The report will be submitted to the State Fire Marshal within 45 days of the date of removal or closure in place. This report will contain at a minimum:

004.03A1. The sample custody record, the name of the laboratory that was used and the original laboratory data sheets.

004.03A2. A site drawing of the tank system (tanks and product lines) placement and/or excavation and dispenser(s) location. The site drawing will be to scale, including distances and directions as measured. The relationship of the tank system to permanent objects, such as curbs or buildings, must be depicted in order to facilitate location at a later date. The location of the facility will be placed on a separate map (e.g., 7.5 minute quadrangle, city, county, highway, aerial photo, or hand drawn) or

described in a narrative. The map or narrative will provide the exact location of the facility in relation to cross streets or other map benchmarks. If over excavation is performed, a description of the locations, amounts of soil, and areal extent will be included.

004.03A3. The location at which samples were collected.

004.03A4. The type of regulated substance last stored in the tank.

004.03A5. A description of the contaminated soil disposal method and final disposal location.

004.03A6. The completed Certification of Compliance.

004.03A7. The completed tank closure checklist.

004.03A8. The actual tank dimensions and capacities.

004.03B. The report will be submitted to:

State Fire Marshal
Fuels Division
246 South 14th Street
Lincoln, NE 68508-1804

005. APPLICABILITY TO PREVIOUSLY CLOSED UST SYSTEMS

The requirements of 40 CFR 280.73 as it existed on July 15, 2015 are adopted and incorporated by reference.

006. CLOSURE RECORDS

The requirements of 40 CFR 280.74 as it existed on July 15, 2015 are adopted and incorporated by reference.



CHAPTER 11 DELIVERY PROHIBITION AND DUTY OF PRODUCT DELIVERERS**001. UST SYSTEMS SUBJECT TO DELIVERY PROHIBITION**

001.01 Any UST system may be subject to delivery prohibition procedures when a facility is determined to be out of compliance with any of following provisions of Title 159:

- 001.01A.** Tank registration requirements of Chapter 2;
- 001.01B.** Leak detection requirements of Chapter 7;
- 001.01C.** Spill prevention requirements of Chapter 5;
- 001.01D.** Overfill requirements of Chapter 5;
- 001.01E.** Recordkeeping requirements of Chapters 5, 6, 7;
- 001.01F.** Corrosion protection requirements of Chapter 4; or
- 001.01G.** Failure to designate a Class A, Class B and Class C operators pursuant to Chapter 13; and
- 001.01H.** Failure to maintain financial responsibility requirements of Chapter 9.

001.02 The State Fire Marshal may defer enforcement of delivery prohibition procedures against UST systems in which this process would jeopardize the availability of, or access to, fuel in any rural and remote area unless an urgent threat to public health or the environment exists. Such deferrals will not exceed 180 days.

001.03 When an UST system is determined to be subject to delivery prohibition procedures, the State Fire Marshal will notify the owner or operator by delivering notice in person, or by clearly posting a notice at the facility and sending a copy of such notice by certified mail to the last known address of the owner or operator. Once service of notice is complete, the State Fire Marshal will affix a red tag to the fill pipe of any non-compliant UST.

001.04 The State Fire Marshal will also maintain a list of all USTs that are determined to be ineligible for delivery of regulated substances. The list will be made available to the public by posting on the State Fire Marshal website at <https://sfm.nebraska.gov/>

002. NO DEPOSIT INTO INELIGIBLE UST SYSTEMS

002.01 No owner or operator may deposit or accept the deposit of any regulated substance into an UST system that has been designated as ineligible for fuel deliveries by the application of a red tag.

002.02 No product deliverer or other person may deliver or deposit any regulated substance into an UST system that has been designated as ineligible for fuel deliveries by the application of a red tag.

003. REMOVAL OF RED TAGS

003.01 No person other than the State Fire Marshal will remove a red tag from an UST system without prior approval.

003.02 The State Fire Marshal will verify compliance within 2 business days of receiving a communication from the owner or operator that the corrections have been made. If the UST system is found to be eligible for delivery, the State Fire Marshal will remove the red tag. As soon as practicable, but no more than 3 business days after removal of the red tag, the facility will be removed from the State Fire Marshal website list of sites ineligible for delivery.

004. DUTY OF PRODUCT DELIVERERS

004.01 Any person who deposits regulated substances in an UST system will reasonably notify the owner or operator of such tank registration requirements pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act.



CHAPTER 12 INSPECTIONS

001. SAFETY INSPECTIONS

Periodic safety inspections will be conducted by State Fire Marshal personnel. All tanks will be subject to at least one inspection annually.

001.01 Inspections will include, but not be limited to, inspection of release detection records, release detection equipment, vent pipes and dispenser systems, corrosion protection records, and applicable fire safety codes.

001.02 Findings of irregularities or insufficient record or monitoring procedures may result in an order by the State Fire Marshal to correct all such problems. State Fire Marshal personnel will perform a follow-up inspection to ensure compliance with the order. At that time, all tanks found not in compliance may have their operating permits suspended or revoked until such time as the order is followed.

002. SPOT CHECKS

Periodic spot checks of tank monitoring systems will be conducted by State Fire Marshal personnel.

002.01 Inspections will cover monitoring systems and inventory control procedures.



CHAPTER 13 OPERATOR TRAINING

The requirements of 40 CFR 280.240 through 280.245 as it existed on July 15, 2015 are adopted and incorporated by reference; and

001. REQUIREMENT OF DESIGNATION AND TRAINING UST OPERATORS

001.01 An owner or operator will designate Class A, Class B, and Class C operators for each underground storage tank system or facility that has underground storage tanks regulated by the State Fire Marshal, except for unstaffed facilities for which only Class A and B operators will be designated. A person may be designated for more than one Class of operator.

002. UST OPERATOR RESPONSIBILITIES

002.01 Class A Operator. Class A operators have the primary responsibility to operate and maintain the underground storage tank system and facility. The Class A operator's responsibilities include managing resources and personnel to achieve and maintain compliance with regulatory requirements

002.02 Class B Operator. A Class B operator will implement applicable underground storage tank regulatory requirements and standards in the field or at the tank facility in accordance with this code. A Class B operator will oversee and implement the day-to-day aspects of operation, maintenance, and recordkeeping for the underground storage tank facility. Each facility's Class B operator will visit each facility at least once every week during normal business hours. The Class B operator will be immediately available for telephone consultation with the Class C operator when a facility is in operation. The Class B operator must be geographically located such that the person can be on site within 2 hours of being contacted by the public, the owner or operator of the facility, or the State Fire Marshal.

002.03 Class C Operator. The Class C operator is an on-site employee who will be responsible for controlling and monitoring the dispensing or sale of regulated substances and is the first to respond to events indicating emergency conditions.

002.03A. The Class C operator will always be present at the facility during normal operating hours.

002.03B. The Class C operator will monitor product transfer operations to ensure that spills and overfills do not occur.

002.03C. The Class C operator will know how to properly respond to spills, overfills and alarms when they do occur.

002.03D. The Class C operator will have access to and provide records and documentation to the State Fire Marshal when a Class B operator is not at the facility.

002.03E. Within 6 months after the effective date of these rules, written basic operating instructions, emergency contact names and



phone numbers, and basic procedures specific to the facility will be provided to all Class C operators and be readily available on site. There may be more than one Class C operator at a facility, but not all employees of a facility need be Class C operators.

003. UST OPERATOR TRAINING REQUIREMENTS

003.01 Approval Standards. Class A and Class B operators will attend a State Fire Marshal approved training course covering material designated for each operator class. In determining whether to approve any trainer or training, the State Fire Marshal will consider the following:

003.01A. Whether the trainer is a third-party, in-house, educational institution or other;

003.01B. Whether the trainer will offer training in multiple locations throughout the state, regionally or locally; and

003.01C. How often the trainer will offer training and whether the trainer will offer classes only to employee or in-house operators, or to the general public. Training options may include live training sessions in a classroom setting or at a storage tank system; internet or computer training program; or another training method approved by the State Fire Marshal.

003.02 Application for Approval Trainers will apply to the State Fire Marshal for approval of trainers and training classes. An application for approval of trainer and training Class will include at a minimum:

003.02A. Name, address and contact information of the proposed trainer;

003.02B. Detailed description of the proposed trainer's experience, education and qualifications to conduct training;

003.02C. Agenda and materials to be used for the proposed class;

003.02D. Final tests or other proposed methods of evaluating attendee success;

003.02E. Copies of proposed documentation to indicate successful completion of training as required in this Chapter; and

003.02F. The proposed calendar for the proposed training classes that includes location and frequency.

The State Fire Marshal will evaluate applications for approval of trainers and training classes within 30 days of receipt of the application, and provide a written approval, denial or request for additional information.

The State Fire Marshal may periodically audit or review any training class, and the trainer will allow a maximum of 2 State Fire Marshal employees to attend any training Class on request without charge.

003.03 Documentation and Recordkeeping by Trainers: Approved trainers will provide written verification of successful completion of training that will include:

- 003.03A.** The operator's name;
- 003.03B.** The date and location where training was completed;
- 003.03C.** The facility name, address and State Fire Marshal facility identification number for each facility for which the operator is designated;
- 003.03D.** The name, address and phone number of the approved trainer that conducted the training; and
- 003.03E.** The date the certificate of training expires.

Approved trainers will maintain records of successful completion of training for each operator, including each operator's individual examination results, for at least 5 years, and will make the records available to the State Fire Marshal upon request.

If a trainer ceases to conduct training in Nebraska, all training records for operators pursuant to this Chapter, will be submitted to the State Fire Marshal prior to the discontinuation of training.

003.04 Training Requirement.

003.04A. Class A Operators. At a minimum, the Class A operator will successfully complete a State Fire Marshal approved training course that covers underground storage tank system requirements pursuant to Title 159. Training must also provide a general overview of the State Fire Marshal's UST program and purpose, public safety and administrative requirements, and the Department of Environment and Energy groundwater protection goals.

003.04A1. Federal regulations adopted by reference 40 CFR 280.242 (a)(1) and (a)(2).

003.04B. Class B Operators. At a minimum, the Class B operator will successfully complete a State Fire Marshal approved training course that provides **in-depth understanding** of UST system regulations. Training will also provide a general overview of the State Fire Marshal's UST program and purpose, public safety and administrative requirements, and the Department of Environment and Energy's groundwater protection goals. Training will also cover the operation and maintenance requirements of Title 159, including, but not limited to, the

following: Federal regulations adopted by reference 40 CFR 280.42 (b)(1) and (b)(2) at it exists on July 15, 2015 and the following:

003.04B1. Provisions for safe fuel handling and equipment maintenance procedures; such as...

Petroleum Equipment Institute PEI/RP900, Recommended Practices for the Inspection and Maintenance of UST Systems; and

Petroleum Equipment Institute PEI/RP500, Recommended Practices for Inspection and Maintenance of Motor Fuel Dispensing Equipment.

003.04B2. Components and materials of construction for UST systems;

003.04B3. Ensuring product delivery by proper labeling or identifying the contents stored in the UST systems;

003.04B4. Corrosion protection and related testing;

003.04B5. Requirement and content of State Fire Marshal compliance inspections;

003.04B6. Product and equipment compatibility, including the State Fire Marshal's ethanol compatibility guidance;

003.04B7. Notification of installation and storage tank registration requirements; and

003.04B8. Requirements to use State Fire Marshal-licensed companies for UST installation, corrosion testing, and closure.

003.05 Class C Operators. At a minimum, the Class C operators must receive training that includes a general overview of the State Fire Marshal's UST program and purpose; Nebraska Environment and Energy groundwater protection goals; public safety requirements; and action to be taken in response to an emergency condition or alarms caused by spills or releases from an UST system and requirements of 002.03 of this Chapter

003.05A. Training will include written procedures for the Class C operator, including reporting instructions necessary in the event of emergency conditions. The written instructions and procedures will be readily available on site. A Class A or Class B operator may provide Class C training.

004. EXAMINATION AND REVIEW REQUIREMENT

004.01 Class A and B operators will complete a State Fire Marshal approved training course and take an exam to verify their understanding and knowledge. The examination may include both written and practical (hands-on) testing activities.

004.01A. The trainer will follow-up the exam with a review of missed test questions with the Class or individual to ensure understanding of problem areas in a manner approved by the State Fire Marshal.

004.02 Upon successful completion of the training course and review session, applicants will be issued a certificate verifying training as a Class A, Class B or Class C operator which will include the date of issuance and the date of expiration.

005. RECIPROCITY

005.01 No reciprocity will be granted and no training from any other state or territory will qualify an operator to meet the requirements of this chapter, unless written documentation is provided to the State Fire Marshal showing the training requirements of this Chapter were met.

006. TIMING OF UST OPERATOR TRAINING

The requirements of 40 CFR 280.243 as it existed on July 15, 2015 are adopted and incorporated by reference.

007. RETRAINING

007.01 Class A and Class B operators will be retrained every 5 years. Class C operators will be retrained every 3 years. All will be retrained in the same manner as the original training required in this Chapter.

007.02 In addition to the retraining requirement, if an UST system is found to be out of compliance, the State Fire Marshal may require retraining of the designated Class A, Class B or Class C operator under a plan approved by the State Fire Marshal. The retraining must occur within 30 days from the State Fire Marshal notice for Class A or Class B operators and within 15 days for Class C operators.

007.03 Retraining may be required whenever a facility is determined to be out of compliance with any of following provisions of Title 159:

007.03A. Tank registration requirements of Chapter 2;

007.03B. Leak detection requirements of Chapter 7;

007.03C. Spill prevention requirements of Chapter 6;

007.03D. Overfill requirements of Chapter 6;

007.03E. Recordkeeping requirements of Chapters 5, 6, or 7; or

007.03F. Corrosion protection requirements of Chapter 4.

008. DOCUMENTATION OF OPERATOR TRAINING BY OWNERS

The owner of an underground storage tank facility will maintain a list of designated operators. The list will be made available to the State Fire Marshal upon request. The list will represent the current Class A, Class B and Class C operators for each underground storage tank facility

008.01 A copy of the certificates of training for Class A operators will be on file and readily available for inspection at each facility under their responsibility.

008.02 Class A and Class B operator contact information, including telephone numbers and any other emergency contact information, will be readily accessible to all staff and inspectors.



**CHAPTER 14 UST SYSTEMS WITH FIELD-CONSTRUCTED TANKS AND AIRPORT
HYDRANT FUEL DISTRIBUTION SYSTEMS.**

The requirements of 40CFR 280.11 and 280.250 through 252 as it existed on July 15, 2015 are adopted and incorporated by reference.



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