

Draft Rules – Edits Highlighted

Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

Division 12 ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

340-012-0067

Underground Storage Tank (UST) Classification of Violations

(1) Class I:

- (a) Failing to investigate or confirm a suspected release;
- (b) Failing to establish or maintain the required financial responsibility mechanism;
- (c) Failing to obtain the appropriate general permit registration certificate before installing or operating an UST;
- (d) Failing to install spill and overfill protection equipment that will prevent a release, or failing to demonstrate to DEQ that the equipment is properly functioning;
- (e) Failing to install, operate or maintain a method or combination of methods for release detection such that the method can detect a release from any portion of the UST system;
- (f) Failing to protect from corrosion any part of an UST system that routinely contains a regulated substance;
- (g) Failing to permanently decommission an UST system;
- (h) Failing to obtain approval from DEQ before installing or operating vapor or groundwater monitoring wells as part of a release detection method;
- (i) Installing, repairing, replacing or modifying an UST system in violation of any rule adopted by DEQ;
- (j) Failing to conduct testing or monitoring, or to keep records where the failure constitutes a significant operational compliance violation;
- (k) Providing, offering or supervising tank services without the appropriate license; or

(l) Failing to assess the excavation zone of a decommissioned or abandoned UST when directed to do so by DEQ.

(2) Class II:

(a) Continuing to use a method or methods of release detection after period allowed by rule has expired;

(b) Failing to have a trained UST system operator for an UST facility after March 1, 2004;

(c) Failing to apply for a modified general permit registration certificate;

(d) Failing to have an operation certificate for each compartment of a multi-chambered or multi-compartment UST when at least one compartment or chamber has an operation certificate;

(e) Installing, repairing, replacing, testing or modifying an UST or UST equipment without providing the required notifications;

(f) Failing to decommission an UST in compliance with the statutes and rules adopted by DEQ, including, but not limited to, performance standards, procedures, notification, general permit registration and site assessment requirements;

(g) Providing tank services at an UST facility that does not have the appropriate general permit registration certificate;

(h) Failing to obtain the identification number and operation certificate number before depositing a regulated substance into an UST, by a distributor;

(i) Failing, by a distributor, to maintain a record of all USTs into which it deposited a regulated substance;

(j) Allowing tank services to be performed by a person not licensed by DEQ;

(k) Failing to submit checklists or reports for UST installation, modification or suspected release confirmation activities;

(l) Failing to complete an integrity assessment before adding corrosion protection;

(m) Failing by an owner or permittee to pass the appropriate national examination before performing tank services; or

(n) Failing to provide the identification number or operation certificate number to persons depositing a regulated substance into an UST.

(3) Class III: Failing to notify the new owner or permittee of DEQ's general permit registration requirements, by a person who sells an UST.

Statutory/Other Authority: ORS 466.720, 466.746, 466.882, 466.994 & 468.020

Statutes/Other Implemented: ORS 466.706 - 466.835, 466.994 & 468.090 - 468.140

History:

DEQ 1-2014, f. & cert. ef. 1-6-14

DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06

DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05

DEQ 6-2003, f. & cert. ef. 2-14-03

DEQ 19-1998, f. & cert. ef. 10-12-98

DEQ 4-1994, f. & cert. ef. 3-14-94

DEQ 21-1992, f. & cert. ef. 8-11-92

DEQ 15-1991, f. & cert. ef. 8-14-91

DEQ 15-1990, f. & cert. ef. 3-30-90

DEQ 4-1989, f. & cert. ef. 3-14-89

DEQ 22-1988, f. & cert. ef. 9-14-88

DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88

Division 160

**REGISTRATION AND LICENSING REQUIREMENTS FOR UNDERGROUND
STORAGE TANK SERVICE PROVIDERS**

340-160-0005

Purpose

(1) The purpose of these rules is to provide for the regulation of persons performing services for underground storage tank (UST) systems to assure that UST systems are being serviced in a manner which will protect the public health and welfare and the land and waters within the State of Oregon. These rules establish standards for:

(a) Licensing of persons performing UST services;

(b) Examination, qualification and licensing of individuals who supervise the performance of UST services; ~~and~~

(c) Performance, documentation and approval of UST services; and

(ed) Administration and enforcement of these rules by the department.

(2) Except as provided in section (3), this division applies to the installation, modification, repair, decommissioning and testing of USTs regulated under OAR 340, division 150.

(3) Except as provided by OAR 340-150-0156, this division does not apply to UST services performed by the property owner, owner or permittee.

Statutory/Other Authority: ORS 466.746 & 466.750

Statutes/Other Implemented: ORS 466.750

History:

DEQ 6-2003, f. & cert. ef. 2-14-03

DEQ 15-1991, f. & cert. ef. 8-14-91

DEQ 3-1989, f. & cert. ef. 3-10-89

340-160-0010**Definitions**

The definitions and terms used in OAR 340-150-0010 and this rule apply to this division:

(1) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, joint venture, consortium, association, state, municipality, commission, political subdivision of a state or any interstate body, any commercial entity or the federal government or any agency of the federal government.

(2) "Excavation" means the entire process of creating or opening the pit and trenches that contain the components of a UST system, including concrete or asphalt demolition.

(23) "Service provider" means a person licensed by the department to offer to perform or perform UST services on USTs regulated under OAR 340, division 150.

(34) "Supervisor" means an individual licensed by the department to direct and oversee specific UST services.

(45) "UST services" includes without limitation, installation, decommissioning, modification, repair, testing (e.g., cathodic protection and tank tightness), and inspection of UST systems.

Statutory/Other Authority: ORS 466.746 & 466.750

Statutes/Other Implemented: ORS 466.706 & 466.750

History:

DEQ 6-2003, f. & cert. ef. 2-14-03

DEQ 11-1990, f. & cert. ef. 3-13-90

DEQ 21-1989(Temp), f. & cert. ef. 9-18-89

DEQ 3-1989, f. & cert. ef. 3-10-89

340-160-0020**General Provisions**

(1) A person may not perform or offer to perform UST services without first obtaining a license from ~~the department~~DEQ.

(2) A service provider is prohibited from offering or performing UST services on an UST system defined by OAR 340-150-0010(84) (except as exempted or deferred by OAR 340-150-0008), unless the owner and permittee of the UST system have been issued a general permit registration certificate by ~~the department~~DEQ.

~~(3) A service provider must:~~

~~(a) Comply with this division;~~

~~(b) Have proof of current license available when UST services are performed;~~

~~(c) Maintain a current address on file with the department; and~~

~~(d) Perform UST services in a manner that conforms with all federal and state regulations applicable at the time the services are being performed.~~

~~(4) A service provider must submit a checklist on a form provided by the department to the department within 30 days, or as otherwise required for the UST owner and permittee, following the completion of UST services. In addition, the service provider must meet the following requirements:~~

~~(a) All checklists must be signed by an executive officer of the service provider and the supervisor of the project; and~~

~~(b) An as-built drawing of the completed UST installation or modification must be included with the associated checklist.~~

~~(5) A supervisor must be present during UST installation and modification when the following tasks are being performed:~~

~~(a) Preparation of the excavation immediately before receiving backfill and placement of the tank into the excavation;~~

~~(b) Any movement of the tank, including but not limited to, transferring the tank from the vehicle used to transport it to the project site;~~

~~(c) Setting of the tank and its associated piping into the excavation, including placement of any anchoring devices, backfill to the level of the tank and strapping, if any;~~

~~(d) Placement and connection of the piping system to the tank;~~

~~(e) Installation of cathodic protection;~~

~~(f) All pressure testing of the UST system, including associated piping, performed during the installation or modification;~~

~~(g) Completion of the backfill and filling of the excavated area around the installed UST;~~

~~(h) Preparation for and installation of any tank lining systems; and~~

~~(i) UST excavation.~~

~~(6) A supervisor must be present during an UST decommissioning when the following tasks are being performed:~~

~~(a) UST excavation;~~

~~(b) Removal and capping of vent and product lines;~~

~~(c) Cleaning the UST and removal of contents;~~

~~(d) Tank purging or inerting;~~

~~(e) Any movement of the tank, including but not limited to transferring the tank to the vehicle used to transport it from the project site; and~~

~~(f) Collection of soil and water samples.~~

~~(7) A supervisor must be present during the testing of an UST cathodic protection system.~~

~~(8) A supervisor must be present during the tank tightness testing of an UST system performed under OAR 340-150-0445.~~

~~(9) A service provider must report to the department the existence of any condition relating to an UST system that has or may result in a release to the environment within 72 hours of discovery of the condition.~~

~~(10) The requirements of this section are in addition to and not in lieu of any other licensing requirement imposed by law.~~

Statutory/Other Authority: ORS 465.200 - 465.320 & 466.706 - 455.995

Statutes/Other Implemented: ORS 466.706 & 466.750

History:

DEQ 6-2003, f. & cert. ef. 2-14-03

DEQ 15-1991, f. & cert. ef. 8-14-91

DEQ 3-1989, f. & cert. ef. 3-10-89

340-160-0021

UST Service Provider Work Practices

(1) For all scheduled UST services, a UST service provider must:

(a) Notify DEQ on a form specified by DEQ 3 business days before start of the work;

(b) Provide with the notification:

(A) The name of the licensed UST Supervisor who will perform the work;

(B) The manufacturer's name and a description of each piece of UST equipment involved in the work; and

(C) A copy of the proof of manufacturer's certification for the UST Supervisor specified in section (A) above for each piece of equipment specified in section (B) above.

(2) In addition to the requirements in section (1) above, for the following UST Services, a UST Service Provider must receive approval in writing from DEQ before proceeding:

(a) For UST installations:

(A) Setting the tank;

(B) Primary and secondary pipe testing;

(C) Integrity testing of the sumps and spill buckets;

(D) Backfilling the piping and tank top; and

(E) Start up testing.

(b) For UST modifications:

(A) Primary and secondary pipe testing;

(B) Integrity testing of the sumps and spill buckets;

(C) Backfilling the piping and tank top; and

(D) Start up testing.

(c) For UST repairs:

(A) Starting the repair; and

(B) Testing the repair.

(d) For UST decommissionings:

(A) Removing the tank; and

(B) Site assessment sampling.

(3) If DEQ does not provide approval to proceed to the notifications described in section (2) above within 3 business days, approval to proceed will be deemed to have been granted.

(4) Following the completion of UST Services, a UST Service provider must:

(a) Submit testing results, including all failed tests, to DEQ on a form provided by DEQ within 30 days;

(b) Submit a checklist on a form provided by DEQ for each installation, modification, repair or decommissioning within 30 days;

(A) All checklists must be signed by an executive officer of the service provider and the supervisor of the project; and

(B) An as-built drawing of the completed UST installation or modification must be included with the associated checklist.

(5) In the case of an emergency repair, where delay could result in danger to human health or a release of petroleum into the environment, a UST Service Provider must satisfy the requirements of section (1) above within 72 hours of completing the repair.

(6) A service provider must report to the department the existence of any condition relating to an UST system that has or may result in a release to the environment within 72 hours of discovery of the condition.

(7) The requirements of this section are in addition to and not in lieu of any other licensing requirement imposed by law.

Statutory/Other Authority: ORS 465.200 - 465.320 & 466.706 - 455.995

Statutes/Other Implemented: ORS 466.706 & 466.750

340-160-0022

UST Supervisor Work Practices

(1) A supervisor must be present during UST installation and modification when the following tasks are being performed:

(a) Preparation of the excavation immediately before receiving backfill and placement of the tank into the excavation;

(b) Any movement of the tank, including but not limited to, transferring the tank from the vehicle used to transport it to the project site;

(c) Setting of the tank and its associated piping into the excavation, including placement of any anchoring devices, backfill to the level of the tank and strapping, if any;

(d) Placement and connection of the piping system to the tank;

(e) Installation of cathodic protection;

(f) All pressure testing of the UST system, including associated piping, performed during the installation or modification;

(g) Completion of the backfill and filling of the excavated area around the installed UST;

(h) Preparation for and installation of any tank lining systems; and

(i) UST excavation.

(2) A supervisor must be present during an UST decommissioning when the following tasks are being performed:

(a) UST excavation;

(b) Removal and capping of vent and product lines;

(c) Cleaning the UST and removal of contents;

(d) Tank purging or inerting;

(e) Any movement of the tank, including but not limited to transferring the tank to the vehicle used to transport it from the project site; and

(f) Collection of soil and water samples.

(3) A supervisor must be present during the testing of an UST cathodic protection system.

(4) A supervisor must be present during the tank tightness testing of any component of an UST system performed under OAR 340-150-0445.

(5) A service provider must report to the department the existence of any condition relating to an UST system that has or may result in a release to the environment within 72 hours of discovery of the condition.

(6) The requirements of this section are in addition to and not in lieu of any other licensing requirement imposed by law.

Statutory/Other Authority: ORS 465.200 - 465.320 & 466.706 - 455.995

Statutes/Other Implemented: ORS 466.706 & 466.750

340-160-0025

Types of Licenses

(1) The department may issue the following types of licenses:

- (a) Service provider;
- (b) Installation supervisor;
- (c) Decommissioning supervisor;
- (d) ~~Tank tightness~~UST testing supervisor; and
- (e) Cathodic protection system test supervisor.

(2) Licenses will be issued in accordance with the requirements of OAR 340-160-0030 for service providers and 340-160-0035 for supervisors.

Statutory/Other Authority: ORS 466.746 & 466.750

Statutes/Other Implemented: ORS 466.750

History:

DEQ 6-2003, f. & cert. ef. 2-14-03

DEQ 3-1989, f. & cert. ef. 3-10-89

340-160-0030

Licensing of UST Service Providers

(1) To apply for a service provider license, a person must submit an application to the department on a form provided by the department that includes:

- (a) The name, address and telephone number of the applicant;
- (b) The category(ies) of UST services to be performed;
- (c) A summary of the UST services provided by the applicant within the two year period immediately preceding the application, including the number of UST service projects completed in each category of UST services and identification of any other industry or government licenses held by the applicant related to specific UST services;
- (d) A list of employees with supervisor licenses, the specific UST services for which they are licensed, the date the employee received a license from the department and each employee's license number;
- (e) A signed statement that certifies that: "I [insert name], am the chief executive officer of [insert company name] and do hereby certify that I have obtained a copy of the applicable laws and rules pertaining to the regulation of underground storage tanks in the State of Oregon and that I have read them and will direct the employees and principals of this company to perform the UST services rendered by this company in accordance with those laws and rules"; ~~and~~
- (f) The required license fee; ~~and-~~

(g) The Oregon Construction Contractor's Board license number of the service provider.

(2) The department will review the application for completeness. If the application is incomplete, the applicant will be notified in writing of the deficiencies.

(3) The department may deny, in writing, a license to an applicant who has not satisfied the license application requirements.

(4) If the application is approved, a service provider license will be issued to the applicant. The license is valid for a period of 24 months.

(5) License renewals must be applied for in the same manner as required for an initial license, except the service provider must submit the complete renewal application to the department at least 30 days before the expiration date of the current license.

(6) The department may suspend, revoke or refuse to issue a license if the service provider:

(a) Fraudulently obtains or attempts to obtain a license;

(b) Fails at any time to satisfy the requirements for a license or to comply with the rules of this division or OAR chapter 340, division 150;

(c) Fails to meet any applicable state or federal standard relating to the UST services performed under the license; or

(d) Fails to employ and designate a licensed supervisor for each UST service project.

(7) A service provider who has a license suspended or revoked may reapply for a license after demonstrating to the department that the cause of the suspension or revocation has been resolved.

(8) If a service provider no longer employs a licensed supervisor, the service provider must immediately cease providing UST services. The service provider cannot provide UST services until a licensed supervisor is again employed by the service provider and written notice of the hiring of a licensed supervisor is received by the department.

Statutory/Other Authority: ORS 466.746 & 466.750

Statutes/Other Implemented: ORS 466.750

History:

DEQ 3-2008, f. 2-29-08, cert. ef. 3-10-08

DEQ 6-2003, f. & cert. ef. 2-14-03

DEQ 3-1989, f. & cert. ef. 3-10-89