

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

310 CMR 80.00: UNDERGROUND STORAGE TANK (UST) OPERATOR TRAINING

Section

80.01: Applicability and Definitions for Operator Training

80.02: Class A, B, and C Operator Requirements and Certifications

80.01: Applicability and Definitions for Operator Training

(1) Applicability. The requirements of 310 CMR 80.02 shall apply to Class A, B and C operators and all Owners and Operators of UST systems, except as provided in 310 CMR 80.01(2)(a) through (l).

(2) The following UST systems shall be exempt from 310 CMR 80.02:

(a) UST systems holding hazardous wastes listed or identified under M.G.L. c. 21C and 310 CMR 30.000, except UST systems holding waste oil.

(b) UST systems that are part of stormwater or wastewater treatment systems regulated under the federal Clean Water Act, 33 U.S.C. § 1342 or 1317(b) or M.G.L. c. 21, §§ 26 through 53, the state Clean Water Act, M.G.L. c. 21, §§ 26 through 53, including but not limited to industrial wastewater holding tanks and oil water separators.

(c) Equipment or machinery that contains regulated substances for non-consumptive operational purposes, including, but not limited to hydraulic lift tanks and electrical equipment tanks.

(d) UST systems that contain a *de minimus* concentration of regulated substances. The Owner or Operator shall keep the documentation for at least two years after the substance is no longer stored in the UST system, in hard copy or electronically. Upon request from the Department, the Owner or Operator shall make the documentation available to the requestor as soon as possible, but in no event more than seven business days after the request.

(e) UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954, 42 U.S.C. § 2011.

(f) UST systems containing low level radioactive waste or its mixture with hazardous waste regulated by the Nuclear Regulatory Commission and/or the Department of Public Health.

(g) UST systems that are part of an emergency generator system at a nuclear power generation facility regulated by the Nuclear Regulatory Commission under 10 CFR § 50, app. A.

(h) Landfill leachate storage tanks at facilities regulated pursuant to 310 CMR 19.00: *Solid Waste Management*.

(i) Consumptive use tanks.

(j) Farm or residential tanks of 1100 gallons or less used exclusively for the storage of motor fuel.

(k) Emergency spill or overflow containment UST systems that are emptied within 48 hours of the introduction of a regulated substance.

(l) UST systems with a capacity of 110 gallons or less.

(3) Definitions. As used in 310 CMR 80.01 and 80.02, the following terms shall have the following meanings:

Business Day means a day of the week that is not Saturday, Sunday, a legal state or federal holiday, or any other day in which the offices of the Department are closed.

Consumptive Use or Consumptive Use Tank means fuel oil, including waste oil, used exclusively for area heating and/or the heating of domestic water on the premises where stored.

Department means the Massachusetts Department of Environmental Protection.

Emergency Spill or Overflow Containment UST System means a tank used to contain accidental spills which are unanticipated and unpredictable.

Farm Tank means a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. The term “farm” includes, but is not limited to fish hatcheries, rangeland and nurseries with growing operations.

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Industrial Wastewater Holding Tank means a tank that is used to accumulate or store industrial wastewater as defined in 314 CMR 18.04: *Definitions*.

Oil Water Separator means a tank that utilizes the difference in density between oil or petroleum products and water to physically separate the oil or petroleum products from the water.

Operator means:

- (a) in the case of an underground storage tank system in use on November 8, 1984, or brought into use after that date, any person in control of, or having responsibility for, the daily operation of an underground storage tank system used for the storage, use, or dispensing of regulated substances; or
- (b) in the case of any underground storage tank system in use before November 8, 1984, but not in use at any time on or after that date, any person who owns the land on or in which such tank is or was located.

Owner means:

- (a) in the case of an underground storage tank system in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank system used for the storage, use, or dispensing of regulated substances; or
- (b) in the case of any underground storage tank system in use before November 8, 1984, but not in use at any time on or after that date, any person who owned such tank immediately before the discontinuance of such use.

Person means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, the United States Government, state, municipality, commission, political subdivision of a state, interstate body, consortium, joint venture or commercial entity.

Regulated Substance means:

- (a) any substance defined in the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601(14), including waste oil but not including any other substance regulated as a hazardous waste under M.G.L. c. 21C; and
- (b) petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60° F and 14.7 pounds per square inch absolute).

Tank means an underground structure used to contain an accumulation of a regulated substance. The term shall not include any of the following:

- (a) any septic tank; or
- (b) any pipeline facility, including gathering lines, which is regulated under:
 - 1. the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. § 1671 *et seq.*; or
 - 2. the Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. App. § 2001 *et. seq.*;or
- (c) any surface impoundment pit, pond, or lagoon; or
- (d) any stormwater or wastewater collection system; or
- (e) any flow through process tank; or
- (f) any liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or
- (g) any storage tank situated in an underground area, including without limitation, a basement, cellar, or mineworking drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor, and all sides are accessible and visible.

Underground Storage Tank (UST) Facility or Facility means the property on which one or more underground storage tank systems and related above-ground structures are located.

Underground Storage Tank (UST) System, means any one or combination of tanks, including, without limitation, underground pipes connected thereto, used to contain an accumulation of a regulated substance, the volume of which, including the volume of underground pipes connected thereto, is 10% or more beneath the surface of the ground. The term shall not include any of the following tanks or any pipes connected to any of the following:

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- (a) any septic tank; or
- (b) any pipeline facility, including gathering lines, which is regulated under:
 - 1. the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. § 1671 *et seq.*; or
 - 2. the Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. App. § 2001 *et. seq.*;
- (c) any surface impoundment pit, pond, or lagoon; or
- (d) any storm water or waste water collection system; or
- (e) any flow through process tank; or
- (f) any liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or
- (g) any storage tank situated in an underground area, including without limitation, a basement, cellar, or mineworking drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor, and all sides are accessible and visible.

(4) Whenever any provision in 310 CMR 80.01 or 80.02 requires an action to be taken by an Owner or Operator, either may take the action but both are responsible for ensuring that the proper action is taken, and both the Owner and Operator are jointly and severally liable.

80.02: Class A, B and C Operator Requirements and Certifications

(1) Effective August 8, 2012, every Owner and Operator shall ensure that at least one Class A, B and C operator certified in accordance with 310 CMR 80.02 is designated to each underground storage tank system.

- (a) An individual may be designated by an Owner and Operator as a Class A, Class B, or Class C operator or any combination of the three Classes.
- (b) An individual Class A, Class B, or Class C operator may be designated by an Owner and Operator for more than one UST system or UST facility.

(2) Except as provided in 310 CMR 80.02(2)(a), the Owner or Operator shall ensure that a Class A, B or C operator is present when the UST system(s) is in operation.

At unmanned UST systems, including, but not limited to, emergency generators at telecommunication towers and card lock/card access facilities, there shall be Class A, B and C operators designated as responsible for operation and maintenance activities at such systems and responding to emergencies, and they shall be certified in accordance with 310 CMR 80.02(7), (8) and (9), respectively.

(3) If a different Class A, B or C operator needs to be designated for any reason, including, but not limited, to resignation or termination, the Owner or Operator shall designate the appropriate Class A or B operator within 30 days of the position being vacated, or Class C operator within ten days of the position being vacated, and the Owner or Operator shall ensure that said Class A, B or C operator is certified in accordance with 310 CMR 80.02(7), (8) or (9).

(4) Class A Operator Requirements.

- (a) A Class A operator shall have general knowledge and understanding of underground storage tank systems and applicable state regulatory requirements that apply to underground storage tank systems, including, but not limited to:
 - 1. Tanks and piping;
 - 2. Regulated substances stored;
 - 3. Leak detection;
 - 4. Spill prevention;
 - 5. Overfill prevention;
 - 6. Corrosion protection;
 - 7. Emergency response procedures;
 - 8. Product compatibility;
 - 9. Financial responsibility documentation requirements;
 - 10. Registration and other notification requirements;
 - 11. Reporting and record keeping requirements;
 - 12. UST testing requirements;
 - 13. Temporary and permanent closure requirements; and
 - 14. The Class B operator qualifications, training and examination requirements and Class C operator qualifications and training requirements.

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- (b) A Class A operator shall ensure that appropriate individuals:
 - 1. Properly operate and maintain the underground storage tank system.
 - 2. Maintain required records.
 - 3. Are trained to operate and maintain the underground storage tank system and keep records.
 - 4. Properly respond to emergencies caused by leaks or releases from underground storage tank systems.
 - 5. Make financial responsibility documents available to the Department as required.

- (5) Class B Operator Requirements.
 - (a) A Class B operator shall have in-depth knowledge and understanding of operation and maintenance requirements and applicable state regulatory requirements that apply to underground storage tank systems, including but not limited to:
 - 1. Tanks and piping;
 - 2. Regulated substance stored;
 - 3. Leak detection;
 - 4. Spill prevention;
 - 5. Overfill prevention;
 - 6. Corrosion protection;
 - 7. Emergency response procedures;
 - 8. Product compatibility;
 - 9. Financial responsibility documentation requirements;
 - 10. Registration and other notification requirements;
 - 11. Reporting and record keeping requirements;
 - 12. UST testing requirements;
 - 13. Temporary and permanent closure requirements; and
 - 14. The Class C operator qualification and training requirements.
 - (b) A Class B operator shall ensure implementation of the day-to-day aspects of operation and maintenance of, and recordkeeping for, underground storage tank systems and shall have general and site specific knowledge of the following:
 - 1. Components of underground storage tank systems.
 - 2. What material the underground storage tank system components are constructed of.
 - 3. Methods of release detection and release prevention applied to the underground storage tank system.

- (6) Class C Operator Requirements.
 - (a) A Class C operator shall have specific knowledge of the layout of the UST system(s), emergency procedures and how to respond to alarms.
 - (b) A Class C operator shall:
 - 1. Immediately and properly respond to alarms or other indications of emergencies caused by leaks, or releases from underground storage tank systems.
 - 2. Immediately notify a Class A or Class B operator and appropriate emergency responders.
 - (c) A Class C operator shall be the Owner or Operator of the underground storage tank facility or an employee of the Owner or Operator, but not all employees of the Owner or Operator are necessarily Class C operators.

- (7) Certification Requirements for Class A Operators.
 - (a) The Owner or Operator shall ensure that Class A operators are certified within 30 days after being designated by the Owner or Operator to assume responsibility for an underground storage tank system.
 - (b) Requirements to be certified as a Class A operator:
 - 1. Obtain training in accordance with 310 CMR 80.02(7)(c) and (d) which may include on-the-job training; and
 - 2. Take and pass an operator examination in accordance with 310 CMR 80.02(7)(e) through (g).
 - (c) The Owner or Operator shall ensure that Class A operators are trained on the type(s) of UST system(s) for which they are designated. Said training shall cover subject matters in 310 CMR 80.02(4) and shall include those systems for which the Class A operator is designated. Said training shall include, but not be limited to:

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1. Types of tanks, piping, regulated substances stored, overfill prevention, leak detection and corrosion protection.
 2. Operation and maintenance schedules and requirements.
 3. Testing, reporting and recordkeeping requirements.
 4. Financial responsibility requirements and the financial responsibility instruments that are in place for each UST system.
 5. General emergency response procedures and requirements.
- (d) The Owner or Operator shall document that Class A operators have received training that complies with 310 CMR 80.02(7)(b)1. and (c). The Owner or Operator shall keep the documentation for at least two years after the Class A operator is no longer designated by the Owner or Operator, in hard copy or electronically. Upon request from the Department, the Owner or Operator shall make the documentation available to the requestor as soon as possible, but in no event more than seven business days after the request.
- (e) Class A operators shall demonstrate knowledge of UST systems in general and all applicable state regulations by taking and passing an operator examination, as required by the Department.
- (f) Upon passing the operator examination, the Class A operator shall receive a certificate indicating passage of the operator examination and the Owner or Operator shall keep a copy of the certificate for at least two years after the Class A Operator is no longer designated by the Owner or Operator, in hard copy or electronically. Upon request from the Department, the Owner or Operator shall make the documentation available to the requestor as soon as possible, but in no event more than seven business days after the request.
- (g) Any individual who takes and fails any operator examination three times within six months shall be prohibited from taking any operator examination for six months from the third failure.
- (h) A Class A operator with a current Class A certification from another state may be certified in Massachusetts as a Class A operator if the operator is trained in accordance with 310 CMR 80.02(7)(c), and the Class A operator passes the Massachusetts-specific portion of the operator examination.

(8) Certification Requirements for Class B Operators.

- (a) The Owner or Operator shall ensure that Class B operators are certified within 30 days after being designated by the Owner or Operator to assume operation and maintenance responsibilities of the underground storage tank system.
- (b) Requirements to be certified as a Class B operator:
 1. Obtain training in accordance with 310 CMR 80.02(8)(c) and (d) which may include on-the-job training; and
 2. Take and pass an operator examination in accordance with 310 CMR 80.02(8)(e) through (g).
- (c) The Owner or Operator shall ensure that Class B operators are trained on the specific UST system(s) for which they are designated. Said training shall cover subject matters in 310 CMR 80.02(5) and shall include those systems for which the Class B operator is designated. Said training shall include, but not be limited to:
 1. Types of tanks, piping, regulated substances stored, overfill prevention, leak detection and corrosion protection.
 2. Operation and maintenance of the underground storage tank system.
 3. Testing, reporting and recordkeeping requirements.
 4. Financial responsibility documentation requirements.
 5. Emergency response procedures and requirements.
- (d) Owners or Operators shall document that Class B operators have received training that complies with 310 CMR 80.02(8)(b)1. and (c). The Owner and Operator shall keep the documentation for at least two years after the Class B Operator is no longer designated by the Owner or Operator, in hard copy or electronically. Upon request from the Department, the Owner or Operator shall make the documentation available to the requestor as soon as possible, but in no event more than seven business days after the request.
- (e) Class B operators shall demonstrate knowledge of UST systems in general and all applicable state regulations by taking and passing an operator examination, as required by the Department.

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(f) Upon passing the operator examination, the Class B operator shall receive a certificate indicating passage of the operator examination and the Owner or Operator shall keep a copy of the certificate for at least two years after the Class B operator is no longer designated by the Owner or Operator, in hard copy or electronically. Upon request from the Department, the Owner or Operator shall make the documentation available to the requestor as soon as possible, but in no event more than seven business days after the request.

(g) Any individual who takes and fails any operator examination three times within six months shall be prohibited from taking any operator examination for six months from the third failure.

(h) A Class B operator with a current Class B certification from another state may be certified in Massachusetts as a Class B operator if the operator is trained in accordance with 310 CMR 80.02(8)(c), and the Class B operator passes the Massachusetts-specific portion of the operator examination.

(9) Certification Requirements for Class C Operators.

(a) A Class C operator shall be certified before being designated by the Owner and Operator.

(b) In order to be certified as a Class C operator, the Owner or Operator shall document that an individual was trained by a Class A or B operator. The training shall be site specific and shall include, at a minimum, the actions to take in response to alarms or other indications of emergencies caused by leaks or releases from an underground storage tank system.

(c) When the training is complete, the trainer and the Class C operator shall each sign and date the training log for the UST facility documenting that the training was completed in accordance 310 CMR 80.02(9)(b) and (c). The trainer shall also document the underlying reason for the re-training in accordance with 310 CMR 80.02(9)(d). The Owner or Operator shall maintain the log for at least two years after the Class C operator is no longer designated, in hard copy or electronically. Upon request from the Department, the Owner or Operator shall make the log available to the requestor as soon as possible, but in no event more than seven business days after the request.

(d) The Owner or Operator shall ensure that the Class C operator is re-trained and shall document the re-training and the underlying reason for the re-training in accordance with 310 CMR 80.02(9)(c) when:

1. Emergency procedures change at a facility;
2. The type or location of the leak detection alarm system changes; or
3. The type or location of the emergency shut-off switch changes.

(10) Temporary Transfers of Class C Operators. Prior to the Class C operator assuming designation at a UST facility to which the Class C operator is temporarily transferred, the Owner or Operator shall ensure that such Class C operator is trained on the site-specific emergency procedures of the UST facility in accordance with 310 CMR 80.02(9).

(11) The Owner or Operator shall maintain a list of the designated Class A, B and C operator(s) for each UST system or facility, in hard copy or electronically. Upon request from the Department, the Owner or Operator shall make the documentation available to the requestor as soon as possible, but in no event more than seven business days after the request. This list shall include, but not be limited to, the hiring date or contract date, the date of the operator's most recent training and, for Class A and B operators, the date of his or her most recent operator examination certification.

(12) Without limitation, if the Department determines that an UST system is out of compliance with applicable state regulations, the Department may require that the Owner or Operator provide re-training for one or more Class A, B or C operator(s) and/or require that one or more Class A or B operator(s) re-take and pass the operator examination.

REGULATORY AUTHORITY

310 CMR 80.00: M.G.L. c. 210, § 4.