Massachusetts Department of Environmental Protection
Underground Storage Tank Program

UST Third-Party Inspection Reference Manual

April 2019

How to Use This Third-Party Inspection Reference Manual

Introduction

The U.S. Environmental Protection Agency (EPA) requires that every state delegated by it to administer and enforce the federal UST program inspect all UST facilities every three years. As allowed by EPA, the Massachusetts Department of Environmental Protection (MassDEP) has implemented a third-party inspection program which uses Third-Party Inspectors (TPI), rather than MassDEP personnel, to conduct these inspections. TPIs provide inspection reports to UST facility Owners or Operators, who then submit these reports to MassDEP. The agency in turn submits a summary of the findings to EPA on a semi-annual basis.

In developing the TPI program, MassDEP directs the TPIs to conduct the inspections and complete the inspection report to reflect the conditions at the UST facility at the time of the inspection – a "snapshot in time" of the compliance at the facility.

If the TPI discovers areas of non-compliance, and it is before the facility compliance date, the Owner or Operator can correct these deficiencies prior to submitting the third-party inspection report (TPIR), and have the TPI conduct a re-inspection to determine if the deficiency has been correctly remedied.

After the re-inspection, the Owner or Operator will sign and submit the TPIR. If there are non-compliance issues at a UST facility that the Owner or Operator cannot fix prior to the UST facility compliance date, a Return-to-Compliance (RTC) plan, listing the deficiencies, will be generated by the Data Management System (DMS). The Owner or Operator is required to detail what they will do at the facility to satisfy the deficiencies on the RTC.

The Owner or Operator has 30 days to correct the deficiencies and submit an RTC Completion Report to MassDEP through the DMS. It is the responsibility of the Owner or Operator to ensure that the TPIR and RTC plan, if applicable, is submitted to MassDEP by the deadline.

The regulations that apply to the certification of TPIs and third-party inspections can be found at 310 CMR 49.00.

Purpose of the Manual

The contents of this manual include:

1. Background of applicable section
2. Summary of requirements
3. How TPIR questions should be answered

This guidance document tracks, by section, the TPIR and the questions contained in each section. For each question on the TPIR checklist, the manual contains the following:

1. The text of the question from the TPIR checklist
2. The regulation that pertains to the question and a description of the criteria by which to correctly answer the question.

This guidance document manual is not intended to be read from cover to cover, but rather to be used as a resource, providing question-specific guidance on an as needed basis when conducting third-party inspections.

Users viewing this document electronically click on the highlighted Section header in the "Link to Section" column of the Table of Contents to go directly to the section of the manual that contains that question. Users working from a paper copy of the manual may use the Table of Contents to find the applicable section page number.

Please note that although you see the words "Effective January 2, 2015…" at the beginning of many of the questions in the third-party inspection report, we have deleted it from this guidance manual. The date was originally inserted into the TPI report format because it was developed as the regulations were being promulgated, so many of the questions refer to regulations from that date forward. Because the regulations have now been in existence for four years, we have deleted that reference in this manual.

This document does not constitute "final agency action," and is not "regulation" as that term is used in M.G.L. c.30A. It may not be relied upon to create rights, duties, obligations or defenses, implied or otherwise, enforceable by any party in any administrative proceeding with the Commonwealth. In addition, this guidance does not exempt anyone from complying with any other applicable local, state or federal law.

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Overview of Registration

The UST Owner must register their UST systems with MassDEP within 30 days of receiving regulated substance into the UST system using the online MassDEP UST Data Management System (DMS) **[310 CMR 80.23(1)].** The UST facility registration must be kept current and can be updated by the Owner or Operator (if authorized by the Owner) **[310 CMR 80.23(1)(b)]**. Changes to the registration must be updated within 30 days of the change.

The UST registration contains four sections:

- Owner/Operator Entity data
- Facility data
- Financial Responsibility data (please see NOTE below)
- UST System Information

At the time that the registration is completed and submitted using the DMS, the UST System Owners, Operators, or their authorized signatories must certify that the registration is true, accurate and complete.

During a Third-Party Inspection, the Third-party Inspector must review the registration for accuracy **[310 CMR 80.49(7)(a)1.].** The Third-Party Inspector should also check that the conditions at the facility are reflected correctly within the Data Management System (DMS). The registration data can be accessed through the DMS at: https://ma-ust.windsorcloud.com/ust/?0 Use the UST ID# to locate the facility's current registration information. Once on the "Facility Detail" screen print out the Registration using the "print report" button located to the right of the screen. The printed report includes additional registration data that is not included on the facility page. The Third-party inspectors need to review the entire registration to complete the inspection.

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Registration – Owner/Operator

A1. Is the registration data true, accurate and complete for the Legal Owner of the USTs?

Answer YES if both of the following are TRUE:

- Upon review of a printed copy of the Facility Detail Report from the DMS, all Owner data fields are completed, and
- The TPI must review and determine that all current Owner Information entered in the UST Data Management System (DMS) is true, accurate and complete.

Answer NO if:

- One or both of the above criteria has not been met.

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Registration – Owner/Operator

A2. Is the registration data true, accurate and complete for the Owner Contact?

Answer YES if both of the following are TRUE:

- Upon review of the facility's Facility Detail Report, all Owner Contact fields are complete, and
- The TPI must review and determine that all current Owner Contact data entered in the DMS is true, accurate and complete.

Answer NO if:

- one or both of the above criteria has not been met.

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Registration – Owner/Operator

A3. Is the registration data for the Legal Operator of the USTs true, accurate and complete (if applicable)?

Answer YES if both of the following are TRUE:

- Upon review of the facility's Facility Detail Report, all Operator Information fields have been completed, and
- The TPI must review and determine all current Operator Information entered in the DMS is true, accurate and complete.

Answer NO if:

- one or both of the above criteria has not been met

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Registration – Owner/Operator

A4. If applicable, is the registration data for the Operator Contact true, accurate and complete?

Answer YES if BOTH of the following are TRUE:

- Upon review of the facility's Facility Detail Report, all Operator Contact fields have been completed, and
- The TPI must review and determine that all current Operator Contact data entered in the DMS is true, accurate and complete.

Answer NO if:

- One or both of the above criteria has not been met

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Registration – Facility

A5. Is the registration true, accurate, and complete for the facility location?

Answer YES if BOTH of the following are TRUE:

- A review of the facility's Facility Detail Report shows that all General Facility and Report Information fields have been completed, and
- The TPI verifies that the Facility Detail Report regarding the current General Facility and Report Information that has been entered in the DMS is true, accurate and complete.

Answer NO if:

- one or both of the above criteria has not been met

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Registration – Facility

A6. Is the registration data true accurate and complete for the facility type?

Answer YES if BOTH of the following are TRUE:

- A review of the facility's Facility Detail Report, shows that the General Facility and Report Information Type field has been competed, and
- The facility type identified in the Facility Detail Report is true, accurate and complete.

Answer NO if:

- One or both of the above criteria has not been met

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Financial Responsibility

NOTE on Financial Responsibility mechanisms:

- The 21J State Fund Program is a financial responsibility (FR) mechanism for retail gasoline and diesel fuel dispensing facilities only.
- The 21J program is not applicable to UST systems used to store waste oil. Facilities who use the 21J Program as the FR for their retail gasoline/diesel fuel USTs and have one or more waste oil USTs must obtain a second FR mechanism to provide the required FR coverage for the waste oil UST(s).
- To verify the effective period of coverage under the 21J Program for a given facility, access the following link:
    - https://wfb.dor.state.ma.us/UST.Public/WebPages/Public/login.aspx?pim=lo; and
    - Enter the facility's UST ID# in the box to the right titled "COC Status Quick Check" and click the "Go" button
    - The FR information for the facility will appear in the box

(NOTE: these questions are repeated on the checklist for each tank at the facility, for up to 4 tanks)

Financial Responsibility

A7. Is the registration data true, accurate, and complete for the applicable financial responsibility instrument?

Answer YES if BOTH of the following are TRUE:

- A review of the facility Owner or Operator's Financial Responsibility registration shows that all fields for Financial Responsibility registration are fully completed for each financial responsibility instrument held by the Facility Owner/Operator, and
- A review of facility records confirms that the Financial Responsibility listed in the registration is in fact the Facility's Financial Responsibility.

Answer NO if:

- One or both of the above criteria has not been met

Use the above criteria to answer the FR questions for each tank located at the facility.

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Registration - UST System

(NOTE: these questions are repeated on the checklist for each tank at the facility, for up to 4 tanks)

A14. through A37. Is the registration data cited in questions A14 through A37 true, accurate, and complete for each UST System?

Answer YES if BOTH of the following are TRUE:

- A review of the facility's Facility Detail Report, Tank Registration (Tank Detail Report) for each registered UST, shows that all registration fields are completed; and
- At the time of the third-party inspection:
  - all existing USTs at the facility are correctly registered, and
  - each applicable UST's Tank Registration is true and accurate.

Answer NO, if:

- One or both of the above criteria has not been met for each tank for each field in each Tank Registration question

NOTE: Based on statutory requirements, MassDEP does not require the registration of consumptive use tanks, nor do Owners and Operators of consumptive use tanks need to have third-party inspections completed on consumptive use tanks. Consumptive use tanks are partially regulated by MassDEP, and the regulations that apply to these tanks can be found at 310 CMR 80.00 according to 310 CMR 80.04(8), 80.04(9), and 80.04(10). If an Owner or Operator states that a tank is a consumptive use tank, the TPI should verify through records or inspection that the tank is used to store fuel oil that is exclusively used for area heating and/or the heating of domestic hot water used on-site. Waste oil tanks that have recycling permits to burn waste oil during the heating season are not considered to be consumptive use tanks.

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Overview of A/B Operator Certification

Every Owner and Operator of an UST system must designate a certified Class A, Class B Operator and a Class C Operator to each of their UST systems. An individual can be designated as a Class A, Class B, or Class C Operator or any combination of the three Classes. Class A and Class B Operators must take and pass an operation examination as part of the certification to be a Class A or Class B Operator. Massachusetts also has an Operator examination for individuals who wish to be a Class A/B Operator. These certified Operators have specific responsibilities for the UST systems to which they are designated. Class A Operators must have a general knowledge and understanding of UST systems and applicable state regulations. The list of Class A Operator requirements can be found at 310 CMR 80.37(4). Class B Operators must have an in-depth knowledge and understanding of the operation and maintenance requirements and state regulations that apply to UST systems. The list of Class B Operator requirements can be found at 310 CMR 80.37(5). Class A and B Operators must also be trained on the UST systems to which they are designated. Class C Operators do not need to take and pass an Operator examination, but they must be trained on the layout of the UST system to which they are designated, as well as the emergency procedures at their facility and how to respond to UST system alarms.

A/B Operator Certification Requirements [310 CMR 80.37]

All UST System Owners or Operators must:

1. Designate a Class A, B and C Operator for each UST system located at a facility [310 CMR 80.37(1)].
2. Within 30 days of designation, designated Class A and B Operators must complete the following [310 CMR 80.37 (7) and (8)]:
    a. Take and passed the applicable MassDEP UST Class A, B or A/B Operator Examination and received a MassDEP Class A, B or A/B Operator ID#; and
    b. Receive site specific training on the UST System for which he/she is designated and for the applicable Operator level [310 CMR 80.37(7) and (8)].
3. Maintain a current Facility List of Designated Class A, B, A/B, and C Operators, including, but not limited to, the hiring or contract date of the Operator, the date of the Operator's most recent training, and, for Class A, B and A/B Operators, the date that the Operator examination was taken. [310 CMR 80.37(11)].
4. In addition to #3 above, maintain a training log for Class C Operators that includes the signature of the Class C Operator and the trainer [310 CMR 80.37(9)(c)].
5. Have a Class A, B, A/B or C Operator on-site during operating hours (unmanned facilities, i.e., emergency generator, telecommunications tower or card access only facilities must designate a Class A, B (or A/B) and C Operator to respond to facility issues) [310 CMR 80.37(2)].
6. Maintain records for all designated Class A, B, A/B and C Operators for at least two years after the Operator is no longer designated [310 CMR 80.36(2)].

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A/B Operator Certification

B1. Except as provided in 310 CMR 80.37(2), at the time of the third-party inspection, is a Class A, B, or C Operator present when the UST system is in operation?

Class A, B, A/B and C Operators who are on-site when the facility is operating are the individuals who are responsible for responding to alarms and emergencies. These individuals play an important role in facility compliance. Class A, B and A/B Operator also have additional responsibilities, including knowledge of the UST facility systems and the regulatory responsibilities for UST facilities. **[310 CMR 80.37(2)]**

Answer "Yes" if ALL of the following are TRUE:

At the time of the inspection:

- The facility was in operation and,
- There is at least one designated and certified Class A, B, or A/B, or a designated and trained Class C Operator present on-site.

Answer "No" if ALL of the following are TRUE:

At the time of the inspection:

- The facility was in operation, and
- There was NOT at least one designated and certified Class A, B, or A/B, or designated and trained Class C Operator present on-site.

Answer N/A if:

At the time of the inspection:

- The facility was not in operation, or
- The facility is an unmanned facility (for example: an emergency generator, telecommunications tower or card access only facility) or the facility was not in operation at the time of the inspection.

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A/B Operator Certification

B2. Is a Class A, B and C Operator designated for each UST System?

Both EPA and MassDEP regulations require that a Class A, B, or A/B, and a Class C Operator be designated for each UST system at a facility. One individual can be designated as all three Classes, or a facility may have individual Class A, B or A/B, and C Operators. **[310 CMR 80.37(1)]**

Answer "Yes" if:

- Records show that all UST Systems at the facility have one or more designated Class A, B, (or A/B) and C Operators

Answer "No" if:

- Records show that one of more UST systems at the facility do not have one or more designated Class A, B, (or Class A/B) and C Operators.

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A/B Operator Certification

B3. Are all designated Class A, B, (or A/B) Operators MassDEP certified UST Class A. A/B, or B Operators?

Class A, B and A/B Operators must take and pass a certification test to become certified. The link to this test is found on the MassDEP UST website. **[310 CMR 80.37(7) and (8)]**

Answer "Yes" if the following is TRUE:

Each person identified on facility records as a designated Class A, B, and A/B Operator:

- holds a MassDEP Class A, B, or A/B Operator Certificate (obtained by taking and passing the Operator certification test)

Answer "No" if:

One or more persons identified on facility records as a designated Class A, B, and A/B Operator:

- does NOT hold a MassDEP Class A, B, A/B Operator Certificate

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A/B Operator Certification

B4. Are all designated Class A, A/B, B and C Operators certified as trained on the UST system(s) for which they are designated?

Class A, B and A/B Operators must be trained on the UST systems to which they are designated. Class A Operators are trained to have a general knowledge and understanding of UST systems and the applicable state regulations that apply to the system to which they are delegated. Class B Operators must be trained to have an in-depth knowledge and understanding of the operation and maintenance of the UST system to which they are delegated, and the applicable state regulations. Class C Operators must be trained on the facility's emergency procedures that should be implemented if the event of an alarm or a release. **[310 CMR 80.37(7)(b), (8)(b) and (9)(b) and (11)]**

Answer "Yes" if:

- Records show that all designated Class A, B, A/B, and C Operators have been trained on the UST system to which they are designated.

Answer "No" if:

There is no documentation that all designated Class A, B, or A/B and C Operators have been trained.

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A/B Operator Certification

B5. Since the last third-party inspection are records of all Class A, A/B, B and C Operators' training and/or certification maintained in accordance with 310 CMR 80.37(11)?

The Owners and Operators of UST systems must maintain a list of designated Class A, B, A/B and C Operators, either electronically or in hard copy. The list must include, but is not limited to, the hiring date or contract date of the Operator, the date of the most recent training, and for Class A, B or A/B Operators, the date of their passing the certification test.

Answer "Yes" if ALL of the following are TRUE:

The Owner and Operator have a list showing:

- The designated Class A, B, A/B and C Operators for each UST system in hard copy or electronically, including:
  - the hiring date or contract date,
  - the date of the Operator's most recent training, and
  - for Class A, B and A/B Operators, the date of the most recent Operator examination certification.

Answer "No" if EITHER of the following are TRUE:

The Owner and Operator:

- Do not have a list of the designated Class A, B, A/B and C Operators for each UST system in hard copy or electronically, or
- The list does not contain the required information.

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Overview of Monthly Visual Inspections

Once per month, UST Owner and Operators are responsible for having a certified Class A, B, or A/B Operator, or a person under the direction of a Class A, B or A/B Operator, visually inspect each UST systems for the following [310 CMR 80.35(2)]:

- Verify the electronic monitoring equipment is on and functioning properly [310 CMR 80.35(2)(a)];
- Inspect each spill bucket to verify that [310 CMR 35(2)(b) and 310 CMR 80.28(2)(e)]:
    - There is no solid or liquid material in the spill bucket;
    - There are no signs of corrosion, breakage or wear; and
    - All sensors are set in accordance with manufacturer's specifications (if applicable)
- Verify fill covers are properly color-coded according to API 1637, 3rd Edition, 2006, *Using the API Color-Symbol system to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals* (www.global.ihs.com) and correctly reflect the regulated substance in the UST system [310 CMR 80.35(2)(c) and 310 CMR 80.24(4)].

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Monthly Visual Inspections

C1. Are there records of monthly visual inspections being conducted in accordance with 310 CMR 80.35(2)?

The monthly visual inspection covers the UST system and UST components covers the following:

- Verifying that the electronic monitoring equipment is currently on and properly operating;
- An inspection of each spill bucket in accordance with 310 CMR 80.28(2)(e)
- Verifying that grade level fill covers are properly color-coded in accordance with 310 CMR 80.24(4)

The results of each inspection must be recorded and maintained in accordance with 310 CMR 80.36(1).
[310 CMR 80.35(2), (4) and 80.36(1)]

Answer "Yes" if:

Since the last third-party inspection:

- there is a complete set of monthly visual inspection reports (36 months if the TPI has been competed on-time)

Answer "No" if:

Since the last third-party inspection:

- one or more monthly visual inspection reports is missing (36 months if the TPI has been conducted on time).

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Monthly Visual Inspections

C2. Did a designated Class A or B (or Class A/B) Operator or a person under the direction of a Class A or B (or Class A/B) Operator conduct each monthly visual inspection?

The UST Owner and Operator is responsible for ensuring that monthly visual inspections are conducted for all UST systems. The monthly visual inspections must be conducted by a Class A, B or A/B Operator or under the direction of the Class A, B or A/B Operator. **[310 CMR 80.35(1) and 310 CMR 80.35(4)]**

Answer "Yes" if:

- Records of the monthly inspections show that they were conducted by the designated Class A, B, or A/B Operator, or by another individual under the designated Operator's direction.

Answer "No" if:

- Records of the monthly inspections do not show that they were conducted by the designated Class A, B or A/B Operator, or by anther individual under the designated Operator's direction.

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Monthly Visual Inspections

C3. For UST components that were not properly operating or maintained, are there records of component repair or replacement in accordance with 310 CMR 80.33?

If the monthly visual inspection shows that any UST components are not properly operating or being properly maintained, the Owner or Operator must repair or replace that component within 30 days of the discovery of the need for the repair or replacement If the repair or replacement cannot be done within 30 days, the UST system must be taken temporarily out-of-service, removed or closed-in-place, unless there is a longer timeframe specified with the regulations or, if due to circumstances out of the control of the UST Owner and Operator the repair or replacement cannot be made within 30 days and the Owner or Operator has notified the MassDEP in writing with the necessary details of the delay and a schedule for the work to be completed.

Answer "YES" if:

Since the last third-party inspection:

- One or more monthly inspection data show a need for repair or replacement of an UST component, and
- Records show that all repairs or replacements were conducted within 30 days of the date of discovery of the need for the repair or replacement.

Answer "NO" if:

Since the last third-party inspection:

- One or more monthly inspection data show a need for repair or replacement of an UST component, and
- Records show that all repairs or replacements were NOT made within 30 days of the date of discovery of the need for the repair or replacement, or
- One or more monthly visual inspections show that repairs or replacements were needed, but there are no records showing that the repairs or replacements were made.

Answer N/A if:

Since the last third-party inspection:

- All of the monthly visual inspection data shows there were no components that required repair or replacement.

Question C4: Effective January 2, 2015: Are all monthly visual inspection records maintained? HAS BEEN DELETED

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Overview of Spill Buckets

Spill buckets are liquid tight containers designed to contain small amounts of regulated substance to prevent it from entering the environment. Spill buckets at gasoline dispensing facilities are installed around fill pipes. Industrial facilities that store chemicals for processes may have a containment system designed to catch spillage from a tank yard/farm rather than individual spill buckets.

All UST systems in Massachusetts are required to have a spill bucket [310 CMR 80.21(1)]. Spill buckets installed before January 2, 2015 must have a minimum capacity of three (3) gallons [310 CMR 80.21(1)(b)]. Spill buckets installed on and after January 2, 2015 must have a minimum capacity of five (5) gallons [310 CMR 80.21(1)(a)]. Spill buckets must be inspected during the monthly inspection [310 CMR 80.35(2)], and UST facility Owners and Operators are responsible for keeping spill buckets clean and free of solid and liquid material [310 CMR 80.28(2)(a)]. Owners and Operators should also be checking for the presence of cracks or holes in the spill bucket covers, the spill bucket sides, and the spill bucket bottom [310 CMR 80.28(2)(b)]. TPIs should check the condition of the spill buckets at the time of the inspection to verify that they are free of solids (trash, dirt, leaves, etc.) and liquids (regulated substance or water) and that there are no cracks or holes in the spill bucket cover or the sides and bottom of the spill bucket.

Spill Bucket Requirements Summary

1. All UST System fill pipes must be equipped with a spill bucket **[310 CMR 80.21(1)].**
2. Spill buckets installed on or after January 2, 2015 must be a minimum of five gallon capacity, unless not physically possible to replace a three gallon spill bucket installed before January 2, 2015. Spill buckets installed prior to January 2, 2015 must be a minimum of three gallons capacity **[310 CMR 80.21(1)].**
3. Spill buckets must be kept clean and free of solid and liquid material at all times **[310 80.28(2)(a)].**
4. Spill buckets and covers must be kept free of cracks and holes at all times **[310 CMR 80.28(2)(b)].**
5. If installed, spill bucket sensors must be set in accordance with manufacturer's specifications **[310 CMR 80.28(2)(e)3.].**
6. Spill buckets must be integrity tested in accordance with applicable standards by January 2, 2017 and every five years thereafter **[310 CMR 80.28(2)(f)].**
7. Spill buckets must be repaired or replaced within thirty days of discovery of need for repair or replacement **[310 CMR 80.28(2)(h) and 80.33(4)].**
8. Records of spill bucket inspections, testing, maintenance, and repairs must be maintained **[310 CMR 80.28(2)(i), 80.33(7), 80.35(4) and (5), 80.36(1)(c)].**

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Spill Buckets

D 1. Is each product fill pipe equipped with a spill bucket?

Spill buckets or spill containment devices are liquid tight containers installed around fill pipes designed to contain small releases of fuel that may occur during deliveries. All UST systems in Massachusetts are required to have a spill bucket on the fill pipes. Spill buckets installed before January 2, 2015 must have a minimum capacity of 3 gallons. Spill buckets installed after January 2, 2015 must have a minimum capacity of 5 gallons **[310 CMR 80.21(1)(a)].**

NOTE: Failure to install a spill bucket is a serious violation that can cause an Owner or Operator to be issued a delivery prohibition order. The TPI has an obligation to immediately (but no later than 24-hours after obtaining knowledge of the violation) advise the Owner or Operator of this violation and advise the Owner or Operator of their obligation to notify the MassDEP of the violation condition within 24-hours after obtaining knowledge of the violation [310 CMR 80.49(5(a))8. and 310 CMR 80.48(2)]. If the TPI does not receive written confirmation from the Owner or Operator that MassDEP has been notified within the regulatory timeframe, the TPI must notify the MassDEP no later than 48-hours after notifying the Owner or Operator of the violation condition at the facility.

Answer "Yes" if:

- There is a spill bucket installed on each UST system product fill pipe at the facility.

Answer "No" if:

- There is not a spill bucket installed on or more UST fill pipes at the facility.

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Spill Buckets

D2. Is each spill bucket clean and free of solid and liquid material?

Observations of spill buckets are included as part of the monthly inspections and facility personnel are responsible for keeping spill buckets clean and free of any solid and liquid material or product. During the third-party inspection, the condition of the spill buckets should be checked to verify this requirement. **[310 CMR 80.28(2)(a), [310 CMR 80.35(2)]**

Answer "Yes" if:

- All spill buckets at the facility are clean and free of solid and liquid material.

Answer "No" if:

- One or more spill buckets contain solid or liquid material.

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Spill Buckets

D3. Is each spill bucket and cover free of cracks and holes?

During your third-party inspection, the condition of the spill buckets should be checked to verify that there are no cracks or holes in the spill bucket cover or the sides and bottom of the spill bucket. **[310 CMR 80.28(2)(b)]**

Answer YES if:

- All spill buckets and covers at the facility are free from cracks, holes or signs of corrosion, breakage and wear.

Answer NO if:

- One or more spill buckets and covers at the facility contain cracks, holes or show signs of corrosion.

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Spill Buckets

D4. If applicable, is each spill bucket sensor correctly set in accordance with manufacturer's specification?

Sensors, if installed, must be set according to the manufacturer's specifications **[310 CMR 80.28(2)(e)3.]**

Answer "Yes" if BOTH of the following statements are TRUE:

- The spill bucket is equipped with sensors, and
- The sensors are properly positioned in the spill bucket in accordance with the manufacturer's specifications.

Answer "No" if:

- The spill bucket is not equipped with sensors, or

Answer "NA" if:

- There are no spill buckets at the facility that are equipped with sensors.

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Spill Buckets

D5. Are there records of passing test results for applicable spill bucket integrity tests?

Spill buckets were required to pass an integrity test on or before January 2, 2017. Spill buckets must be retested once every five years thereafter. All spill buckets must pass an integrity test (i.e. tightness test) at installation. The integrity test can be a vacuum or hydrostatic test. The standard for test failure is 1/8 or greater loss of water within one hour, which is equivalent to 0.05 gallons per hour in a typical 12-inch diameter bucket. Records of the test results must be maintained in accordance with **310 CMR 80.36(1)(c).**

Answer "Yes" if:

There are passing integrity test results for all spill buckets under the following scenarios, as applicable:

- Spill buckets installed before January 2, 2015; required to be tested before January 2, 2017, and every five years thereafter;
- Spill buckets installed on or after January 2, 2015, required to be tested at the time of installation and every five years thereafter.

Answer "No" if:

- For spill buckets installed before January 2, 2015, there are no records showing that the spill bucket(s) was tested before January 2, 2017, or
- There are no records showing that the spill bucket(s) was tested every five years after the initial testing.
- For spill buckets installed on or after January 2, 2015, there are no records showing that the spill bucket(s) was tested at the time of installation, or
- There are no records showing that the spill bucket(s) was tested every five years after installation.

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Spill Buckets

D6. For spill buckets that failed an inspection or applicable test are there records of spill bucket repair or replacement in accordance with 310 CMR 80.33?

All UST systems and UST components must be repaired or replaced by a qualified individual within 30 days of the discovery of the need to repair/replace. The UST Owner or Operator may also inform MassDEP in writing within 30 days of the discovery of the need for repair or replacement that the repairs cannot be conducted within that timeframe and provide MassDEP with information as to the circumstances. Records are maintained in accordance with 310 CMR 80.36. **[310 CMR 80.33(4) and 310 CMR 80.36]**.

Answer "Yes" if either of the following statements is TRUE:

- If records show that one or more spill buckets were determined to be corroded, broken, or worn, or in need of repair or replacement, there is a corresponding record of spill bucket repair or replacement within 30 days of the date of the discovery of the need for repair, or
- If records show a failed spill bucket integrity test there is a corresponding record of spill bucket repair or replacement and integrity testing with passing test results within 30 days of the initial failed test.

Answer "No" if:

- If above criteria has not been met.

Answer "NA" if both of the following statements are TRUE:

Since the last TPI:

- The Monthly Visual Inspection reports show there is no record of any spill bucket being corroded, broken, or worn or needing repair or replacement, and
- Records show that all spill buckets at the facility passed the integrity test

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Overview of Overfill Prevention

Every UST system must be equipped with an overfill prevention device. Common overfill prevention devices are drop-tube shutoff valves (commonly known as flapper valves), ball float valves, and high-level alarms [310 CMR 80.21(2)].

Ball Floats Being Phased Out

As of January 2, 2015, new or replacement ball float valves may not be used as a primary overfill prevention device. Ball float valves installed prior to January 2, 2015 may continue in service as the primary overfill prevention device until it needs to be replaced. Ball float valves may be used as a secondary overfill prevention device, provided that they do not interfere with the operation of the primary overfill prevention device. For example, if a flapper valve and a ball float valve are both installed in the same tank, the flapper valve MUST operate first. That is, the flapper valve must be lower in the tank than the ball float [310 CMR 80.21(2)(a)].

High-level Alarms

High-level alarms used for overfill prevention installed before January 2, 2015 must be visible. High-level alarms used for overfill prevention installed on and after January 2, 2015 must be both visible AND audible to the UST system Operator and the regulated substance deliverer [310 CMR 80.21(2)(b)2. and 80.21(2)(b)2.a.].

High-level alarms must also be clearly labeled as tank overfill alarms [310 CMR 80.21(2)(b)2.b.].

Inspection and Testing

Overfill prevention devices must be inspected and tested as follows [310 CMR 80.28(3)]:

- The Owner or Operator shall inspect and test the overfill prevention device as required by the manufacturer to verify that the equipment is functioning properly. If there are no manufacturer's specifications, the inspection and testing should be done once a year.
- The inspection should verify that the device operates at the proper level: 95% of tank capacity for flapper valves, 90% of tank capacity for alarms, and 30 minutes before overfilling for ball floats [310 CMR 80.21(2)(b)].

Repair/Replacement

Overfill prevention devices that fail an inspection or test must be repaired or replaced within 30 days of the date of discovery of the need for repair or replacement [310 CMR 80.33(4)]. If a longer time is required, the UST Owner or Operator must notify MassDEP in writing.

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Overfill Prevention

E7. Is each UST system equipped with an overfill prevention device?

Every UST system must be equipped with an overfill prevention device. Overfill prevention devices that are allowed by the regulations include automatic shut-off devices (sometimes referred to as 'flapper valves') that shut off the flow of regulated substance to the tank when the tank is no more than 95% full; high-level alarms that alert the regulated substance deliverer and the facility personnel when the tank is no more than 90% full, and ball-float valves that alert the regulated substance deliverer by reducing the flow into the tank 30 minutes prior to overfilling. Please note, that after January 2, 2015, new or replacement ball-float valves are prohibited from being the primary overfill prevention device in Massachusetts. **[310 CMR 80.21(2)]**

Answer YES if:

Each UST system is equipped with at least ONE of the following:

- An automatic shutoff valve (flapper valve)
- A ball float valve (if it is the primary overfill prevention device, it was installed before January 2, 2015)
- An overfill alarm

Answer NO if:

- Each UST system is not equipped with at least ONE of the overfill prevention devices cited above.

NOTE: Failure to install an overfill prevention device is a serious violation that can cause an Owner and Operator to be issued a delivery prohibition order. The TPI has an obligation to immediately (but no later than 24-hours after obtaining knowledge of the violation) advise the Owner or Operator of this violation and advise the Owner or Operator of their obligation to notify the MassDEP of the violation condition within 24-hours after obtaining knowledge of the violation [310 CMR 80.49(5)(a)8. and 310 CMR 80.48(2)]. If the TPI does not receive written confirmation from the Owner or Operator that MassDEP has been notified within the regulatory timeframe, the TPI must notify the MassDEP no later than 48-hours after notifying the Owner or Operator of the violation condition at the facility.

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Overfill Prevention

E8. Primary Overfill Prevention Device: Is each automatic shutoff valve, float or flapper correctly installed and operating?

Primary overfill prevention devices must be installed so that flapper valves operate at 95% of tank capacity, high-level alarms operate at 90%, and ball floats operate 30 minutes before an overfill occurs. The specifications of overfill prevention devices can be checked on the manufacturer's website or on the website of the National Working Group On Leak Detection Evaluations (NWGLDE). NWGLDE website is: http://www.nwglde.org/index.html. **[310 CMR 80.21(2)]**

Answer YES if:

Each type of primary overfill device is installed as follows:

- Flapper valves automatically and completely close at 95% of tank capacity.
- Ball floats alert the regulated substance deliverer by restricting the flow of regulated substance 30 minutes before overfilling occurs.
- High-level alarms shall alert the Operator and the regulated substance deliverer when the tank is filled to maximum of 90% of tank capacity by triggering a visible and audible alarm.

Answer NO if:

- The overfill prevention devices are not installed pursuant to the above criteria.

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Overfill Prevention

E9. Primary Overfill Device: Is each high-level alarm installed ON or BEFORE January 2, 2015 clearly labeled and VISIBLE to the Operator and deliverer?

To make sure that the high-level alarm is visible to the deliverer and the facility Operator, the TPI should activate the alarm and verify that it can be heard from each fill port, and within the space that is usually occupied by the individuals who staff the facility. **[310 CMR 80.21(2)(b)2.]**

Answer YES if ALL of the following are TRUE:

- A high-level alarm is used as the primary overfill prevention device, and
- The alarm was installed ON or BEFORE January 1, 2015, and
- The alarm is clearly labeled as the UST overfill alarm, and
- The UST Operator can see the alarm while in their normal working location, and
- The fuel delivery person can see the alarm while standing by a fuel tanker during a delivery.

Answer NO if the following is TRUE:

- One or more of the above criteria are not true.

Answer N/A if ONE of the following is TRUE:

- There is NO high-level alarm used as the primary overfill prevention device, or
- A high-level alarm used for overfill prevention is present at the facility but it was installed AFTER January 1, 2015.

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Overfill Prevention

E10. Primary Overfill Prevention Device: Is each high-level alarm installed ON or AFTER January 2, 2015 clearly labeled, VISIBLE and AUDIBLE to both the UST Operator and the deliverer?

To make sure that the high-level alarm is visible and audible to the deliverer and the facility Operator, the TPI should activate the alarm and verify that it can be seen and heard from each fill port, and within the space that is usually occupied by the individuals who staff the facility. **[310 CMR 80.21(2)(b)2.]**

Answer YES if ALL of the following are TRUE:

- A high-level alarm is used as the primary overfill prevention device.
- The alarm was installed ON or AFTER January 2, 2015.
- The alarm is clearly labeled as the UST overfill alarm.
- The UST Operator can SEE AND HEAR the alarm while in their normal working location.
- The fuel delivery person can SEE AND HEAR the alarm during the delivery.

Answer NO if ALL of the following are TRUE:

- One or more of the above criteria are not true and you could not answer “yes” to this question.

Answer N/A if ONE of the following is TRUE:

- There is NO high-level alarm used as the primary overfill prevention device.
- A high-level alarm installed BEFORE January 1, 2015 is used for overfill prevention.

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Overfill Prevention

E11. Primary Overfill Prevention Device: Is each ball float valve correctly installed and operating?

Please note: On or after January 2, 2015, new or replacement ball float valves are prohibited as a primary overfill device. Ball float valves installed before January 2, 2015 may be used as the primary overfill prevention device until the ball float valve is replaced.

The ball float valve must alert the regulated substance deliverer by restricting the flow into the tank 30 minutes prior to overfilling. The specifications for the testing of ball float valves can be checked on the manufacturer's website **[310 CMR 80.28(3) and 310 CMR 80.36]**

Answer "Yes" if ALL of the following are TRUE:

- A ball float valve is the primary overfill device installed on all UST Systems, and
- Manufacturer specifications for the installed ball float valve system(s) verify the ball float valve can be installed to restrict flow at 30 minutes before the tank is overfilled, and
- The ball float valve has passed all annual inspections since the last third-party inspection specifications.

Answer "No" if ANY of the following are TRUE:

- Manufacturer specifications were not followed for the installation, or
- It is not possible to determine whether one or more ball float valves is correctly installed to restrict flow at 30 minutes before the tank is overfilled, in accordance with manufacturer's specifications, or
- The ball float valve failed one or more of the annual inspections conducted since the last third-party inspection and was not repaired or replaced.

Answer "NA" if:

- All UST Systems are equipped with a primary overfill prevention device, other than a ball float valve system.

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Overfill Prevention

E12. Are there records for annual passing inspections and test results for all overfill devices, unless otherwise required by the manufacturer's specifications?

The specifications for the testing of overfill prevention devices can be checked on the manufacturer's website. If there are no manufacturer's specifications, overfill prevention devices must be inspected and tested annually. Records of the annual inspections and tests must be maintained according to 310 CMR 80.36. **[310 CMR 80.28(3) and 310 CMR 80.36(1)]**

NOTE: If the manufacturer specifies a different testing and inspection interval, the Owner/Operator should inspect and test the overfill prevention device at the interval specified by the manufacturer.

Answer YES if BOTH of the following are TRUE:

- There are records showing that the overfill prevention device on each UST system has been inspected and tested within the last 12 months (or the time interval specified by the manufacturer), and
- The device passed both the inspection and the test.

Answer NO if one or more of the following are TRUE:

- There are no records that the overfill prevention device on each UST system was inspected or tested either annually or per the manufacturer's specifications, and/or
- There are no records that the overfill prevention device on each UST system passed the inspections AND the test

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Overfill Prevention

E13. For overfill prevention devices that failed an inspection or test are there records of overfill prevention device repair or replacement in accordance with 310 CMR 80.33?

If the overfill prevention devices failed a test or inspection, the Owner or Operator must have records showing that the device was repaired or replaced by a qualified individual within 30 days of the date of discovery of the need for the repair or replacement. The UST Owner or Operator may also inform MassDEP in writing within 30 days of the discovery of the need for repair or replacement that the repairs cannot be conducted within that timeframe and provide MassDEP with information as to the circumstances. Records are maintained in accordance with 310 CMR 80.36. **[310 CMR 80.28(3)(b), 310 CMR 80.33(4) and (7) and 310 CMR 80.36]**

Answer YES if BOTH of the following are TRUE:

Since the last third-party inspection:

- One or more overfill prevention devices failed an inspection or test, and
- There are records indicating that the overfill prevention device was repaired or replaced within 30 days of the discovery of the need for repair or replacement (or longer if the Owner or Operator informed MassDEP in writing).

Answer NO if BOTH of the following are TRUE:

Since the last third-party inspection:

- One or more overfill prevention devices failed an inspection or test, and
- There are NO records indicating that the overfill prevention device was repaired or replaced within 30 days (or longer if the Owner or Operator informed MassDEP in writing).

Answer N/A if:

Since the last third-party inspection:

- There are no records indicating that a overfill prevention device has failed an inspection or test.

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Overview of Corrosion Protection

Underground storage tanks (UST) and UST system components made of unprotected metal will corrode when buried or exposed to a corrosive environment. To prevent metal tanks and components from deterioration, UST system components must be protected from corrosion. Corrosion protection (CP) can be accomplished by installing non-metallic material such as fiberglass), steel that is clad with a non-metallic material, or steel that is cathodically protected using a galvanic cathodic protection system (sacrificial anodes) or an impressed current cathodic protection system. USTs and the regulated substance piping that is manufactured with cathodic protection must comply with a listed standard. The only exception to this requirement is risers and fill pipes which may be protected against corrosion by coating, taping or cladding with non-corrosive material.

Field-constructed CP systems must be designed by a corrosion expert according to the regulations found at 310 CMR 80.22(4). Within six months of the installation, the CP system must be tested by a CP tester according to NACE Standards TM0101-2012 (Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Tank Systems) or TM0497-2012 (Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems).

Galvanic Cathodic Protection (CP) Systems Testing Schedule:

- If the test results indicate a voltage of at least -0.90 volts, the galvanic system must be tested at three year intervals thereafter. For example, -0.95 volts is more negative than -0.90 volts, so a reading of -0.95 would be 'passing'. Readings may also be expressed in millivolts (mv): -0.95 volts is equal to -950 mv
- If the CP protected UST system passes the 100 mV cathodic polarization test, the galvanic system shall be tested every three years thereafter
- If the test results are between -0.85 volts and -0.90 volts (-850 mv and -900 mv), the galvanic system must be tested annually thereafter

Impressed Current CP Systems Testing and Inspection Schedule:

- An impressed current system must be equipped with a voltage and/or amperage rectifier. The acceptable voltage and amperage range, determined by a corrosion expert, must be indicated on the rectifier.
- An impressed current CP system must be tested annually.
- The voltage and amperage output of the impressed current rectifier must also be inspected every 60 days by the Owner or Operator in accordance with the manufacturer's specifications or the applicable NACE publication and compared to the range indicated on the rectifier to ensure that the system is operating properly. The results of the inspection must be recorded and maintained [310 CMR 80.36].

CP Testing Schedules Applicable to both Galvanic and Impressed Current Systems:

- All CP systems must be tested within six months of installation
- All CP systems must be tested within 60 days of a repair to the system

- All CP systems must be tested within 60 days of any excavation in the vicinity of the cathodically protected UST system.

Cathodic Protection Tester:

CP testing must be conducted by a CP tester certified by one of the following organizations [310 CMR 80.03] :

- The Corrosion Society (NACE)
- The Steel Tank Institute (STI)
- The International Code Council (ICC)

The Owner/Operator should be able to show that the CP tester has been certified by one of the above certifying groups.

Response to a Failed CP Test:

Galvanic Systems: If the results of the galvanic CP system test show a negative voltage of less than -0.85 or if the system fails the 100-mV cathodic polarization test, the system is inadequate to provide cathodic protection and the Owner or Operator must determine the cause of the failure of the system within 5 business days , and if necessary, repair or replace the system within 120 days of the failed test. Please refer to 310 CMR 80.29(5) to verify that the Owner or Operator has complied with this requirement.

Impressed Current Systems: If the system voltage and amperage readings are outside of the acceptable range for showing that the system is adequately protective, it is considered to be a failed test and the Owner or Operator must retain a corrosion expert within 5 business days, and if necessary, repair or replace the system within 120 days of the failed test. Please refer to 310 CMR 80.29(5) to verify that the Owner or Operator has complied with this requirement.

For both galvanic and impressed current CP systems, the Owner or Operator must document the results of the corrosion expert's determination, including the date of the investigation and the results. If the CP system cannot be restored within 120 days of the failed test, the UST system must be placed temporarily out-of-service or permanently closed.

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Corrosion Protection

F1. Is each UST System protected from corrosion or constructed of non-corrosive material?

All UST systems must be protected against corrosion, either through construction materials or cathodic protection systems. **[310 CMR 80.22]**

NOTE: Failure to install corrosion protection is a serious violation that can cause an Owner or Operator to be issued a delivery prohibition order. The TPI has an obligation to immediately (but no later than 24-hours after obtaining knowledge of the violation) advise the Owner or Operator of this violation and advise the Owner or Operator of their obligation to notify the MassDEP of the violation condition within 24-hours after obtaining knowledge of the violation [310 CMR 80.49(5)(a)8. and 310 CMR 80.48(2)]. If the TPI does not receive written confirmation from the Owner or Operator that MassDEP has been notified within the regulatory timeframe, the TPI must notify the MassDEP no later than 48-hours after notifying the Owner or Operator of the violation condition at the facility.

Answer YES if:

Tanks and piping are constructed of any combination of the following:

- Cathodically protected metal; or
- Non-corrodible material, such as:
  - Fiberglass reinforced plastic
  - Composite
  - Jacketed steel
- Risers and fill pipes may be metal that is coated or taped (this is ONLY applicable to risers and fill pipes)

Answer NO if:

- The tanks and piping are not constructed of non-corrodible material and are not cathodically protected.

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Cathodic Protection: Sacrificial or Galvanic Protection System

If you answered "YES" to question F1, answer N/A to questions F2 and F3 to bypass non-applicable corrosion protection questions.

Corrosion Protection

F2. Sacrificial or galvanic anode type cathodic protection system?

If the facility does not use this type of cathodic protection, answer N/A to Question F2. No other questions in this section need to be answered.

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Corrosion Protection

F2A. Are there records of passing test results for all required system tests?

The TPI should review test results for galvanically protected UST components to determine if the tests were conducted in accordance to the time frames in the regulations, and if the test results show that the system indicated a negative voltage of at least -0.90 volts, or the CP system has passed the 100-mV cathodic polarization test. Galvanically protected UST components with test results of at least -0.90 must be tested annually; UST systems with test results of -0.85 and -0.90 volts must be tested annually. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.29(2) and 310 CMR 80.36].**

Answer YES if BOTH of the following are TRUE:

Since the last third-party inspection:

- There are records of PASSING cathodic protection tests, and
- The records show that the tests were conducted at the appropriate intervals (every year or every three years).

Answer NO if EITHER of the following is TRUE:

Since the last third-party inspection:

- The records do not show PASSING tests, or
- The records show that the tests were not conducted at the appropriate intervals.

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Corrosion Protection

F2B. In response to failed tests - are there records the system was repaired or replaced in accordance with 310 CMR 80.29(5)?

If a cathodic protection system fails the periodic test, the cathodic protection tester can repair and re-test the CP system, if it is completed within 5 business days of the failed test. If the result is a passing test, the repair and re-test should be documented and the records retained. If the cathodic protection tester cannot repair the CP system, the Owner or Operator must retain a corrosion expert within 5 business days of the initial failure. The corrosion expert will determine if the CP system can be repaired or must be replaced. If the CP system is not repaired within 120 days, the UST system must be taken out-of-service or be permanently closed or removed **[310 CMR 80.29(5)].**

Answer YES if the following statements are TRUE:

- The CP system failed a periodic test, and
- There are records indicating that the cathodic protection system was repaired or replaced within 5 days by the cathodic protection tester of the failed test or within 120 days by the corrosion expert of the failed test, or
- If the UST system was not repaired within 120 days, the UST system was taken temporarily out-of-service.

Answer NO if BOTH of the following statements are TRUE:

- The CP system failed a periodic test, and
- There are NO records indicating that the cathodic protection system was repaired or replaced within 120 days of the failed test or taken temporarily out-of-service.

Answer N/A if:

- The CP system has not failed any tests since the last third-party inspection, or
- The UST system is made of non-corrodible materials.

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Corrosion Protection

F2C. In response to failed tests - are there records that repaired systems were re-tested within 60 days of repair or excavation of the UST systems?

Verify that there are there records available for review that show if there have been any excavations around the UST system, and if so, the CP system was tested for proper operation within 60 days following the excavation. Verify that if the CP system has been repaired or was replaced, it was tested for proper operation within 60 days of the repair. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.29(6) and 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

- There has been excavation in the vicinity of a cathodically protected UST system OR a cathodic protection system has been repaired, and
- The cathodic protection system was tested within 60 days following the excavation or repair.

Answer NO if BOTH of the following statements are TRUE:

- There has been excavation at the cathodically protected UST system OR a cathodic protection system has been repaired, and
- The cathodic protection system was NOT tested within 60 days following the excavation or repair.

Answer N/A if BOTH of the following statements are TRUE:

- There has been NO excavation at the cathodically protected UST system, and
- There have been NO repairs to the cathodic protection system.

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Corrosion Protection

F2D. Did a certified cathodic protection system tester conduct the required testing?

All cathodic protection systems must be tested by a certified cathodic protection tester within six months of the installation. Ask the Owner or Operator is they can show that the individual conducting any testing on the cathodic protection systems has been certified by one of the following:

- NACE: The Corrosion Society (level CP1)
- Steel Tank Institute (cathodic protection tester)
- International Code Council (certified in UST Cathodic Protection category)

[310 CMR 80.03; 310 CMR 80.22(5); 310 CMR 80.29]

Answer YES if:

- There is documentation that the cathodic protection tester who conducted required testing is certified as required.

Answer N/A if:

- There is no documentation that the cathodic protection tester who conducted required testing is certified as required.

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Cathodic Protection: Impressed Current Cathodic Protection System

F3. Impressed Current cathodic protection system?

If the facility does not use this type of cathodic protection, answer N/A to Question F3. No other questions in this section need to be answered.

Impressed Current Cathodic Protection System

Corrosion Protection

F3A. Is the system equipped with a voltage and/or ampere meter?

Verify that any UST system equipped with an impressed current CP system has a voltage and/or amperage meter that can be viewed during periodic testing to determine the amperage range. **[310 CMR 80.29(4)(c)]**

Answer YES if BOTH of the following are TRUE:

- The UST system has an impressed current CP system, and
- There is an operational voltage/amperage meter that can be viewed to determine amperage range.

Answer NO if BOTH of the following are TRUE:

- There is no voltage/amperage meter.

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Corrosion Protection

F3B. Is the system "on" and the system operating within acceptable ranges?

The rectifier (containing the voltage and/or ampere meters) should be showing the acceptable operating voltage and amperage ranges that have been determined by the corrosion expert designing the system. These ranges should be affixed to the rectifier. **[310 CMR 80.29(4)(b)]**

Answer YES if BOTH of the following statements are TRUE:

- Power to the rectifier is turned "on", and
- The voltage and/or amperage readings are within the range indicated on the rectifier.

Answer NO if:

- Either of the above criteria have not been met.

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Corrosion Protection

F3C. Are there records of annual passing test results?

Cathodic protection tests must be conducted annually. Verify that there are records of PASSING annual cathodic protection tests since the last third-party inspection. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.29(4) and 310 CMR 80.36(1)(d)]**

Answer YES if:

Since the last third-party inspection:

- There are records of annual (every 12 months) PASSING cathodic protection tests

Answer NO if EITHER of these is TRUE:

Since the last third-party inspection:

- There are no records, or there are missing records, of annual cathodic protection testing tests since the last third-party inspection, or
- The testing records show that one or more annual tests were FAILED.

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Corrosion Protection

F3D. Are there records that the system was inspected every 60 days, including records of system voltage and amperage readings?

Verify that there are records of voltage and amperage readings taken every 60 days since the last third-party inspection. Records must be maintained in accordance with 310 CMR 80.36(1)(d). **[310 CMR 80.29(4)(a) and 310 CMR 80.36(1)(d)]**

Answer YES if BOTH of the following are true:

Since the last third-party inspection:

- Records of voltage and amperage readings are available for review, and
- The voltage and amperage readings were taken every 60 days since the last third-party inspection.

Answer NO if EITHER of the following is true:

- There are no records or missing records of voltage and/or amperage readings, or
- The voltage and/or amperage readings were not conducted every 60 days.

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Corrosion Protection

F3E. In response to failed tests or inspections - are there records the system was repaired or replaced in accordance with 310 CMR 80.29(5) ?

The 60-day inspection records and the annual test records will show whether the impressed current CP system was operating in accordance with the voltage and/or amperage ranges found on the rectifier. If records show that the system was not operating properly, there should also be records indicating the cathodic protection system was repaired or replaced within 120 days after a failed annual test or 60-day inspection. If the 60-day inspection records and the annual testing records show that the system has been operating within the appropriate ranges since the last third-party inspection, there will be no records of repair or replacement to review. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.29(4); 310 CMR 80.29(5), and if the CP system was replaced, 310 CMR 80.22(5), and 310 CMR 80.36]**

Answer YES if BOTH of the following are TRUE:

- There are records indicating a failed annual test OR records of 60-day inspection readings that are outside of acceptable ranges, and
- There are records documenting that the cathodic protection system was repaired or replaced within 120 days of a failed annual test or 60-day inspection.

Answer NO if BOTH of the following are TRUE:

- There are records indicating a failed annual test OR records of 60-day inspection readings that are outside of acceptable ranges, and
- There are NO records documenting that the cathodic protection system was repaired or replaced within 120 days of a failed annual test or 60-day inspection.

Answer N/A if BOTH of the following statements are TRUE:

- All annual cathodic protection test results are passing, and
- All 60-day inspection records indicate that voltage and/or amperage readings were within the ranges specified on the rectifier.

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Corrosion Protection

F3F. In response to failed tests or inspections: Are there records repaired systems were retested within 60 days of repair or excavation of the UST system?

Ask if there have been any excavation activities conducted proximate to the UST system since the last third-party inspection. Excavation activities can disrupt the flow of electrons in the soil and disturb the operation of a CP system. Check the records since the last third-party inspection to see if the cathodic protection system has been repaired. If yes to either of these events, verify that the CP system was tested within 60 days of the excavation or repair. Records must be maintained in accordance with 310 CMR 80.36(1)(d) **[310 CMR 80.29(6) and 310 CMR 80.36(1)(d)]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There has been excavation activity at the cathodically protected UST system AND/OR a cathodic protection system has been repaired, and
- Records show that the cathodic protection system was tested within 60 days following the excavation or repair.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There has been excavation activity at the cathodically protected UST system AND/OR a cathodic protection system has been repaired, and
- There are no records showing that the cathodic protection system was tested within 60 days following the excavation or repair.

Answer N/A if BOTH of the following statements are TRUE:

- There has been NO excavation activity at the cathodically protected UST system, and
- There have been NO repairs to the cathodic protection system conducted.

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Corrosion Protection

F3G. Did a certified cathodic protection system tester conduct the required testing?

All cathodic protection systems must be tested by a certified cathodic protection tester within six months of the installation. Ask the Owner or Operator is they can show that the individual conducting any testing on the cathodic protection systems has been certified by one of the following:

- The Corrosion Society (NACE)
- The Steel Tank Institute (STI)
- The International Code Council (ICC)

[310 CMR 80.03; 310 CMR 80.22(5); 310 CMR 80.29]

Answer YES if:

- Cathodic protection test records include documentation that the cathodic protection tester is certified by ONE of the above certifying bodies.

Answer N/A if:

- There is no documentation

NOTE: This is not a regulatory requirement for the Owner or Operator to maintain documentation that the CP tester is certified. The Owner or Operator, however, is responsible for knowing that the CP tester is certified by one of the certifying bodies prior to hiring the CP tester; therefore this question can only be answered as a “yes” or “n/a”

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Overview of Leak Detection for Tanks

All underground storage tanks are required to have leak detection. Acceptable types of leak detection depend on the use of the tank, the installation date, and the tank size. The following tables describe all of the acceptable method of leak detection described in the regulations. The regulatory requirements for the types of leak detection equipment required and the installation of this leak detection equipment are found at 310 CMR 80.19. The operational aspects of leak detection equipment are found at 310 CMR 80.26.

	Installed Before 1/1/1989	**Installed On or After 1/1/1989**
All Tanks (Except Those Supplying Emergency Generators, Emergency Engine Driven Pumps), including Field-Constructed Tanks with less than 50,000 gallons capacity	Continuous Interstitial Monitoring ATG (static monthly testing) Continuous ATG (CSLD) ATG with SIR	Must be equipped with Continuous Interstitial Monitoring

	Installed Before 1/2/2015	**Installed On or After 1/2/2015**
Tanks Supplying Emergency Generators Or Emergency Engine Driven Pumps	Must comply with ONE of the following: • Continuous Interstitial Monitoring • ATG (static monthly testing) • Continuous ATG • ATG with SIR (monthly testing) • MTG (if the tank has a capacity greater than 1000 gallons) and an annual tightness test • WTG (if the tank has a capacity of 1000 gallons or less)	Must be equipped with Continuous Interstitial Monitoring

ATG = Automatic Tank Gauge; MTG = Monthly Tank Gauging; SIR = Statistical Inventory Reconciliation; WTG = weekly tank gauging

Field Constructed Tanks with a capacity greater than 50,000 Gallons	In addition to the options in the table above: • Annual bulk tank tightness test that can detect leaks at 0.5 gph.; or • ATG with a detection rate of ≤1 gph (monthly testing) with bulk tank tightness testing at a detection rate of 0.2 gph every THREE years; or • ATG with a detection rate of ≤ 2 gph (monthly testing) combined with a

bulk tank tightness testing at a detection rate of 0.2 gph every TWO years

Tanks equipped with electronic leak detection systems (continuous interstitial monitoring, automatic tank gauges, continuous automatic tank gauges, and systems using an automatic tank gauge with SIR) must be tested annually to verify that the leak detection system is operating properly. The annual test may include verification that the setup parameters (e.g., tank size, tank calibration, tank tilt) are correct and that the programming of the system is consistent with the leak detection method in use. This testing is usually conducted by a UST equipment testing company. Records of the annual test must be kept in accordance with 310 CMR 80.36.

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Tank Leak Detection

G1. Is each underground storage tank (UST) equipped with a leak detection system?

Leak detection systems must be installed on all UST systems. These systems are critical to detecting any leakage or releases to the environment as early as possible thereby preventing extensive environmental damage. All USTs installed after 1989 must be double-walled and use continuous interstitial monitoring for UST leak detection. **[310 CMR 80.19(1)]**

Answer YES if:

- Each UST at the facility is equipped with an approved leak detection system. USTs installed after 1989 must be double-walled and equipped with continuous interstitial monitoring.

Answer NO if:

- One or more tanks are not equipped with an approved leak detection system

NOTE: Failure to install leak detection is a serious violation that can cause an Owner and Operator to be issued a delivery prohibition order. The TPI has an obligation to immediately (but no later than 24-hours after obtaining knowledge of the violation) advise the Owner or Operator of this violation and advise the Owner or Operator of their obligation to notify the MassDEP of the violation condition within 24-hours after obtaining knowledge of the violation [310 CMR 80.49(5)(a)8. and 310 CMR 80.48(2)]. If the TPI does not receive written confirmation from the Owner or Operator that MassDEP has been notified within the regulatory timeframe, the TPI must notify the MassDEP no later than 48-hours after notifying the Owner or Operator of the violation condition at the facility.

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Tank Leak Detection

G2. For USTs equipped with electronic leak monitoring/detection systems: Is the system 'fully operational'?

To be fully operational, the leak detection system must have electric power and be 'on'. The TPI should check to see if the system is receiving information from the leak detection equipment, such as checking alarm codes and the liquid status report. If at the time of the inspection there are indications of leakage, a release, or other non-compliance warnings, they should be addressed immediately according to 310 CMR 80.26. **[310 CMR 80.19 and 310 CMR 80.26]**

Answer YES if ALL of the following statements are TRUE:

- Power light or other power indicator connected to the leak detection equipment is on, and
- Tests of warning lights, warning messages, and any other warning indicators related to leaks or compliance related issues (e.g., high water warning) show that the system is working properly

Answer NO if BOTH of the following statements are TRUE:

- There is an electronic leak detection system present, and
- Both of the above criteria are not met

Answer N/A if:

- There is no electronic leak detection system present (see **NOTE** above).

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Tank Leak Detection

G3. For USTs equipped with electronic leak detection systems: Are all systems correctly calibrated and operating in accordance with manufacturer specifications?

All leak detection systems must be operated and maintained according to manufacturer's specification at all times. All leak detection systems must also be tested annually to insure that they are calibrated and operating properly. **[310 CMR 80.19(2) and 310 CMR 80.26]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection,

- There are records indicating that, the leak detection system has been tested annually for proper calibration and operation

Answer NO if BOTH of the following statements are TRUE:

- There is an electronic leak detection system present
- There are no records showing that the leak detection system was tested annually for proper calibration and operation.

Answer N/A if:

- There is no electronic leak detection system present

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Overview of Continuous Interstitial Space Monitoring Systems

The six questions beneath this heading on the TPI report apply to continuous interstitial space monitoring systems (IM) only. If this facility does not use this method of leak detection, check N/A for Question G4.

Continuous interstitial space monitoring (IM) may consist of one or a combination of the following:

- Sensors placed in the interstitial spaces of tanks that are intended to be dry
- Sensors that monitor the liquid level in tank interstitial spaces that are filled with a brine solution
- Sensors placed in liquid-tight sumps to monitor leakage from double-walled piping systems

Tanks installed on or after January 1, 1989 (excluding tanks fueling emergency generators), and tanks fueling emergency generators installed on or after January 2, 2015, must use continuous interstitial monitoring as their form of tank leak detection.

Piping installed after May 28, 1999 must be double-walled with interstitial monitoring, except for European suction piping systems and siphon lines between tanks. Please refer to 310 CMR 80.19(4)(b) for leak detection requirements for piping systems installed between January 1, 1989 and May 28, 1999, and those installed before January1, 1989. The regulations vary substantially for systems installed during these time periods.

Sensors are typically connected to computer systems located inside the facility. The computer system will sound an alarm if any of the sensors connected to it detect the presence of liquid, or in the case of the brine-filled interstitial space, a change in liquid level within the interstice.

Sensors and the computer system to which they are attached must be tested annually (every 12 months) to verify that the leak detection system is operational.

If a sensor triggers an alarm indicates that a release may have occurred, the Owner or Operator must immediately conduct an investigation to determine if there has been a release. The investigation must be concluded within 72-hours from the time when the alarm first sounded. If the investigation is inconclusive, a tightness test must be conducted within 72-hours of the conclusion of the investigation. If the UST system passes the tightness test, the investigation is concluded. If the UST system fails the tightness test, the Owner or Operator must comply with 310 CMR 80.33, 310 CMR 80.38, 310 CMR 80.39 and 310 CMR 40.0300 (reporting to MassDEP Bureau of Waste Site Cleanup [BWSC]), as applicable.

NOTE: *The regulations define **"leakage"** as regulated substance that has escaped from an UST system into an UST component that is not intended to store regulated substance. The regulations define **"release"** as regulated substance that has spilled, leaked, discharged, etc. from an UST system or component into ground or surface water, or surficial or subsurface soils*.

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G4. Continuous Interstitial Space Monitoring

Questions G4B though G4F are for UST systems that have continuous interstitial monitoring as their leak detection system. If the facility you are inspecting does not have an IM system, check N/A for Question G4.

G4A. Is the interstitial space free of solid material, water (not including brine or condensation) and regulated substance?

In order to detect leakage or releases, the interstice of the double-walled tank that is intended to be dry, and/or the interstice of double-walled piping must be kept free of any solid or liquid material. Liquids, solids, etc. within the interstice (except for those interstitial spaces that contain brine) will prevent the system from working properly. **[310 CMR 26(3)(b)]**

Answer YES if:

- All interstitial spaces in a double-walled tank that are intended to be dry, or the interstitial space of double-walled piping, do not contain any regulated substance, solid materials, or water (condensate is not considered to be 'water' for the regulatory purposes).

Answer NO if:

- There is regulated substance, solid material or non-condensate water in the interstice of a double-walled tank that is intended to be dry or in the interstice of double-walled piping.

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Continuous Interstitial Space Monitoring
G4B. Are there records of passing test results for required annual system test?

Interstitial monitoring leak detection systems must be tested annually to ensure that the system is working as designed, and will alert the UST Owner or Operator of any suspected release or leakage. Records of these tests must be maintained by the UST Owner or Operator. **[310 CMR 80.26(3)(d) and 310 CMR 80.36]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are records indicating that the leak detection system has been tested at least once per year to establish that the system is working properly, and
- There are records showing that the system has passed all of the annual tests.

NOTE: If the records show that a test was not passed, there must be records that show that the system was repaired or replaced within 30 days of the failed test [310 CMR 80.33(4)]

Answer NO if:

Since the last third-party inspection:

- Any of the above criteria are missing

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Continuous Interstitial Space Monitoring

G4C. As a result of failed systems tests (pursuant to 310 CMR 80.26(3)(d): Are there records of system repair or replacement in accordance with 310 CMR 80.33?

If any component of the leak detection system failed to operate properly since the last third-party inspection, the UST Owner or Operator must have records showing that the component(s) were repaired or replaced by a qualified individual within 30 days of the failure being detected. The UST Owner or Operator may also inform MassDEP in writing within 30 days of the discovery of the need for repair or replacement that the repairs cannot be conducted within that timeframe and provide MassDEP with information as to the circumstances. Records are maintained in accordance with 310 CMR 80.36. **[310 CMR 80.26(3)(d); 310 CMR 80.33(4); 310 CMR 80.33(5) and 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records indicate that one or more components of the leak detection system failed the annual system test, and
- Records indicate that the failed component(s) were repaired or replaced within 30 days.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records indicate that one or more components of the leak detection system failed the annual system test, and
- Records indicate that the failed component(s) were NOT repaired or replaced within 30 days, or there are NO records.

Answer N/A if:

Since the last third-party inspection:

- Records indicate that all leak detection system components have passed every annual test for proper operation.

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Continuous Interstitial Space Monitoring

G4D. As a result of failed system tests [310 CMR 80.26(3)(d)]: Are there any records of repaired or replaced system components passing operational tests prior to the system being returned to service?

Component of the leak detection system must be tested annually. If any components fails the testing, the UST Owner or Operator must repair or replace the component within 30 days of the failed test and test the repaired or replaced component for proper operation prior to putting it into service. The TPI must check the records of annual tests, repairs or replacements of components, and testing prior to putting a repaired or replaced component back into service conducted since that last TPI inspection. **[310 CMR 80.26(12) and 310 CMR 80.36]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show that, one or more components of the leak detection system failed the annual operational testing, and
- Records show that the failed component(s) were repaired or replaced, and
- Records show that the failed component(s) were tested for proper operation before the leak detection system was returned to service.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that one or more components of the leak detection system failed the annual operating testing, and
- There are NO records indicating that the repaired or replaced component(s) were tested for proper operation before the leak detection system was returned to service.

Answer N/A if:

- Records show that since the last third-party inspection, all leak detection system components have passed every annual system test for proper operation.

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Continuous Interstitial Space Monitoring

G4E. Are there records of system alarms that resulted in an investigation and tightness tests being conducted within 72-hours?

If an alarm is received from the leak detection system that indicates a release or leakage, an investigation to determine the cause of the alarm must be commenced immediately and completed within 72-hours of the alarm. If the cause of the alarm cannot be determined within 72-hours, the Owner or Operator must conduct a tightness test of the suspected tank or piping [310 CMR 80.32]. If the tank and/or piping pass the tightness test, they are considered tight and there is no further action required. If the tank and/or piping fail a tightness test, the Owner or Operator must comply with 310 CMR 80.26(3)(c). The TPI should review records to see if there have been leak detection system alarms since the last third-party inspection and, if such alarms are noted, verify that the UST Owner or Operator has maintained records of the system alarms and their response to these alarms.
[310 CMR 26(3)(c), 310 CMR 80.32, 310 CMR 80.36]

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- One or more release or leakage related alarms have occurred, and
- Records show that an investigation and/or tightness test to determine whether a release or leakage was occurring was completed within 72 hours of when the alarm sounded.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- One or more release or leakage related alarms have occurred, and
- There are NO records showing an investigation and/or tightness test to determine whether a release or leakage was occurring was completed within 72 hours of when the alarm sounded.

Answer N/A if:

Since the last third-party inspection:

- No release or leakage related alarms have occurred since the last third-party inspection.

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Continuous Interstitial Space Monitoring

G4F. As a result of a failed tightness test, are there records of compliance with the requirements of 310 CMR 80.32(3)?

310 CMR 80.32(3) are the regulations that apply to facilities that have had tightness testing failures. A tank or pipe fails a tightness test if the test indicates that the system is not tight and that there has been a release or leakage. The tightness test must be conducted by a certified UST system tightness tester. If an UST system fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure. The UST Owner or Operator must also comply with release notification procedures, as follows:

If a tank has had a release of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 24 hours after obtaining knowledge of the release
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If a tank has had leakage of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 72 hours of obtaining knowledge of the leakage
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If piping is the source of leakage or a release, the Owner or Operator must:

- Immediately isolate and empty the source of the leakage or release
- Have the piping replaced or repaired, or permanently close-in-place or remove the UST system
- Comply with MassDEP notification procedures, as applicable

All repairs or replacements must be completed within 30 days, unless the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service. The UST Owner or Operator may notify the MassDEP in writing of circumstances that prevent repair or replacement within 30 days. **[310 CMR 80.32(3); 210 CMR 80.33, 310 CMR 80.38; 310 CMR 80.39; 310 CMR 80.36 and 310 CMR 40.0300]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show a failed tank or piping tightness test, and
- Records show the failed tank was emptied within 24 hours if there was a release to the environment, within 72 hours if records indicate leakage, or failed piping was isolated and immediately emptied of regulated substance, and

- Records show one or more of the following steps were taken:
    - The tank or piping was removed
    - The tank or piping was permanently closed-in-place
    - The tank or piping was repaired or replaced and re-certified or re-warranted by the manufacturer within 30 days of the failed test, or if the repair or replacement could not be completed within 30 days (unless the MassDEP was notified that the repair could not be completed in 30 days) , placed temporarily out-of-service.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tank or piping tightness test, and
- The criteria above were not met.

Answer N/A if:

Since the last third-party inspection:

- There are no records of failed tank or piping tightness tests

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Overview of In-Tank Monitoring Systems

The six questions under this heading in the TPI Report, listed as 5A through 5F, apply to **static** in-tank monitoring systems only (automatic tank gauges or ATG). If the facility does not have this type of leak detection system or if the facility has an ATG, but does not use it for leak detection, answer N/A to Question G5.

Introduction

In-tank monitoring is conducted by automatic tank gauges (ATGs) installed within the tank. An ATG only provides leak detection for the tank, not the piping. The regulations require that the UST Owner and Operator conduct a monthly test to determine if there have been any releases or leakage from the tank. The tests are conducted over a continuous period of time when there is no filling of the tank or dispensing of the regulated substance allowing the ATG can obtain tank integrity data. Some manufacturers prescribe the amount of time the ATG must measure tank data to conduct a test. If there are no manufacturers specifications as to the amount of time needed to run the test, the test must be conducted for six continuous hours **[310 CMR 80.19(3)(b)2.].** An in-tank monitoring system must be tested annually to insure the system is working properly **[310 CMR 80.26(4)(c)]** and records of the annual testing must be maintained in accordance with **310 CMR 80.36.**

The ATG must be capable of detecting leakage or a release of 0.2 gallons per hour (gph) with the probability of detection of 95% and the probability of a false alarm of 5% as deemed by an independent testing laboratory **[310 CMR 80.19(3)(b)2.].** The TPI can view ATG specifications at the National Working Group on Leak Detection Evaluation (NWGLD) website: http://nwglde.org/index.html

If there is no passing test by the end of the month, the UST Owner and Operator must conduct a tightness test of the tank within 72 hours of the end of the calendar month in which no passing test was obtained. The tightness test must be conducted according to 310 CMR 80.32 and have a detection rate of 0.1 gph. If the tank passes the tightness test, it is considered tight and the requirements have been met for the month.

If the tank fails a tightness test, the failed tank must be emptied of product within 24 hours if there was a release to the environment or within 72 hours if there was leakage. The tank must be removed, closed-in-place, or repaired and recertified or re-warrantied by the manufacturer. If the tank is repaired and recertified of re-warrantied by the manufacturer, it must be tightness tested again within 30 days of the repair **[310 CMR 80.33].**

Component Repair or Replacement

If any component of the in-tank monitoring system (ATG) fails the annual test (or needs to be repaired or replaced at any other time) the defective component must be repaired or replaced within 30 days of the discovery of the need for the repair or replacement. The new or replaced component must pass an operational test before the ATG is returned to service [310 CMR 80.26 (12)].

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G5. In-Tank Monitoring Systems?
If the facility does not have this type of leak detection system or if the facility has an ATG, but does not use it for leak detection, answer N/A to Question G5. No other questions in this section need to be answered.

G5A. Are there records of passing test results for required annual system tests?

The in-tank monitoring system (automatic tank gauge) must be tested annually to ensure that it is working properly. These tests are usually conducted by a tank testing company. Records of the testing must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.26(4)(c) and 310 CMR 80.36]**

Answer YES if ALL of the following statements are TRUE:
Since the last third-party inspection:

- There are records show that the in-tank monitoring system has been tested annually to verify that the system is working properly, and
- Records show that the system passed all the annual tests

Answer NO if EITHER or BOTH statements are TRUE:
Since the last third-party inspection:

- Records show that the in-tank monitoring system did NOT pass one or more of the annual tests conducted, and/or
- Records show that the system was not tested every 12 months

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In-Tank Monitoring Systems

G5B. As a result of failed system tests (310 CMR 80.26(4)(c)): Are there records of system repair or replacement in accordance with 310 CMR 80.33?

If an in-tank monitoring system fails an annual test, the components that failed must be repaired or replaced by a qualified individual within 30 days of the failed annual test and records kept regarding the testing and the repairs/replacement. The UST Owner or Operator may also inform MassDEP in writing within 30 days of the discovery of the need for repair or replacement that the repairs cannot be conducted within that timeframe and provide MassDEP with information as to the circumstances. Records are maintained in accordance with 310 CMR 80.36. **[310 CMR 80.26(4)(c); 310 CMR 80.33(4); 310 CMR 80.33(5); 310 CMR 80.33(7) and 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that the in-tank monitoring system failed the annual test, and
- Records show that the in-tank monitor was repaired or replaced by a qualified individual in accordance with the manufacturer's specifications within 30 days of the failed test.

Answer NO if the following statements are TRUE:

- Records show that since the last third-party inspection, the in-tank monitor failed the annual test, and
- There are no records to show that the failed components were repaired or replaced, or
    - The components were not repaired or replaced by a qualified individual, or
    - The components were not repaired or replaced within 30 days of the failed test.

Answer N/A if:

Since the last third-party inspection:

- Records show that the in-tank monitoring system passed all annual tests.

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In-Tank Monitoring Systems

G5C. As a result of failed system tests [310 CMR 80.26(4)(c]): Are there records of repaired or replaced System components passing operational tests prior to the System being returned to service?

Components of leak detection systems that are repaired or replaced must be tested for proper operation prior to putting them into service. Any components of the in-tank monitoring system that failed the annual test and needed to be repaired or replaced, must be tested prior to putting them into service. The UST Owner and Operator must also maintain records of the repair or replacement according to 310 CMR 80.36. **[310 CMR 80.26(12) and 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that the in-tank monitoring system failed the annual operational test, and
- Records show that the failed component(s) was repaired or replaced, and tested for proper operation before the in-tank monitoring system was returned to service.

Answer NO if the following statements are TRUE:

Since the last third-party inspection:

- Records indicate that the in-tank leak monitoring system failed the annual operational test, and
- There are no records showing that the failed component was repaired or replaced, and/or
- There are no records that the components were tested for proper operation before the in-tank monitoring system was returned to service.

Answer N/A if:

Since the last third-party inspection:

- Records indicate that the in-tank monitoring system passed all annual operational tests.

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In-Tank Monitoring Systems

G5D. Are there records of a passing test result for each calendar month?

All leak detection systems must be tested monthly. For static in-tank monitoring systems, the ATG must be tested over a continuous period of time, usually specified by the manufacturer, when there is no regulated substance being delivered or dispensed. If there is no manufacturer's specification for the period of time needed for the test, the testing must be run for 6 continuous hours. During this test period the ATG analyzes tank data and performs internal tests. When the test is completed, the ATG produces a passed or failed test. The UST Owner and Operator must maintain records of these monthly tests according to 80.36. **[310 CMR 80.26(4)(a) and 310 CMR 80.36(1)(f)]**

Answer YES if BOTH of the following statements are true:

Since the last third-party inspection:

- There are records documenting that each tank at the facility using in-tank monitoring for leak detection was tested each calendar month, and
- The records show that all monthly leak detection tests were passed.

Answer NO if EITHER or BOTH of the following statements are true:

Since the last third-party inspection:

- There are no records, or there are missing records, to show that each tank at the facility using in-tank monitoring for leak detection has conducted a monthly leak detection test, and/or
- The leak detection testing records show that one or more monthly tests resulted in a failure.

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In-Tank Monitoring Systems

G5E. For each calendar month there is not a passing test result, are there records of a tightness test being conducted within 72 hours of the end of the month?

If an UST system fails a monthly in-tank monitoring system leak test, the UST Owner or Operator must have a certified tank tightness tester conduct a tank tightness test, with the standard of detection of a release or leakage of 0.1 gph, within 72 hours of the end of the calendar month in which the failure occurred. Records of the tightness test results must be kept according to 310 CMR 80.36.
[310 CMR 80.26(4)(b), 310 CMR 80.32 and 310 CMR 80.36]

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There has been one or more calendar months when a tank, using in-tank monitoring system, did not have a passing test result by the end of the month, and
- Records show that for each calendar month where there were no passing in-tank monitoring system test result, a tightness test was conducted by a certified tester within 72 hours of the end of the calendar month.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There has been one or more calendar months when a tank, using in-tank monitoring system, did not have a passing test result by the end of the month, and
- Records show that for each calendar month where there were no passing in-tank monitoring system test result, a tightness test was not conducted by a certified tester within 72 hours of the end of the calendar month, or there are no records.

Answer N/A if:

Since the last third-party inspection:

- Each tank using an in-tank monitoring system for leak detection has had a passing test result by the end of each calendar month.

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In-Tank Monitoring Systems

G5F. As a result of a failed tightness test, are there records of compliance with the requirements of 310 CMR 80.32(3)?

310 CMR 80.32(3) are the regulations that apply to facilities that have had tightness testing failures. A tank or pipe fails a tightness test if the test indicates that the system is not tight and that there has been a release or leakage. The tightness test must be conducted by a certified UST system tightness tester. If an UST system fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure. The UST Owner or Operator must also comply with release notification procedures, as follows:

If a tank has had a release of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 24 hours after obtaining knowledge of the release
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If a tank has had leakage of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 72 hours of obtaining knowledge of the leakage
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If piping is the source of leakage or a release, the Owner or Operator must:

- Immediately isolate and empty the source of the leakage or release
- Have the piping replaced or repaired, or permanently close-in-place or remove the UST system
- Comply with MassDEP notification procedures, as applicable

All repairs or replacements must be completed within 30 days, unless the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service. The UST Owner or Operator may notify the MassDEP in writing of circumstances that prevent repair or replacement within 30 days. **[310 CMR 80.32(3); 210 CMR 80.33, 310 CMR 80.38; 310 CMR 80.39; 310 CMR 80.36 and 310 CMR 40.0300]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show a failed tank or piping tightness test, and

- Records show the failed tank was emptied within 24 hours if there was a release to the environment, within 72 hours if records indicate leakage, or failed piping was isolated and immediately emptied of regulated substance, and
- Records show one or more of the following steps were taken:
    - The tank or piping was removed
    - The tank or piping was permanently closed-in-place
    - The tank or piping was repaired or replaced and re-certified or re-warranted by the manufacturer within 30 days of the failed test, or if the repair or replacement could not be completed within 30 days (unless the MassDEP was notified that the repair could not be completed in 30 days) , placed temporarily out-of-service.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tank or piping tightness test, and
- The criteria above were not met.

Answer N/A if:

Since the last third-party inspection:

- There are no records of failed tank or piping tightness tests

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Overview of Continuous In-Tank Monitoring Systems

The six questions under this heading in the TPI Report, listed as 6A through 6F, apply to **continuous** in-tank monitoring systems only (continuous ATG/Continuous Statistical Leak Detection or CSLD). If the facility does not have this type of leak detection system, answer Question G6 as N/A.

Introduction

Continuous In-tank monitoring is conducted by in-tank monitors that read data from the UST system continuously. The monitor is installed within the tank. A continuous in-tank monitor only provides leak detection for the tank, not the piping. Continuous in-tank monitors conduct tests in short time intervals when the UST system is not dispensing or being fueled and when enough data is collected, continuous statistical leak detection (CSLD) analyses is conducted.

The regulations require that the UST Owner and Operator conduct a monthly test to determine if there have been any releases or leakage from the tank. A continuous in-tank monitoring system must be tested annually to insure the system is working properly [310 CMR 80.26(4)(c)] and records of the annual testing must be maintained in accordance with 310 CMR 80.36.

The continuous in-tank monitor must be capable of detecting leakage or a release of 0.2 gallons per hour (gph) with the probability of detection of 95% and the probability of a false alarm of 5% as deemed by an independent testing laboratory **[310 CMR 80.19(3)(b)3.].** The TPI can view ATG specifications at the National Working Group on Leak Detection Evaluation (NWGLD) website: http://nwglde.org/index.html

If at the end of the calendar month there is an indication of a release or leakage, the UST Owner or Operator must conduct a tightness test according to 310 CMR 80.32 within 72 hours of the end of the calendar month. If the tank passes the tightness test, it is considered tight and the requirements have been met for the month. If the tank fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure.

If the tank fails a tightness test, the tank must be emptied immediately (but in no event longer than 24 hours) after obtaining knowledge of the release. A tank that has had leakage of a regulated substance must be emptied immediately, but in no even longer than 72 hours, of obtaining knowledge of the leakage. In both cases, the tank must be closed-in-place or removed, unless the tank manufacturer can do repairs and recertify or re-warranty the tank. Once repaired, the tank must also pass a tightness test. All repairs or replacements must be completed within 30 days of obtaining knowledge of the failure, unless the UST Owner or Operator notifies the MassDEP in writing of the need for an extended timeline, or if the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service. Records are maintained in accordance with 310 CMR 80.36.

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Component Repair or Replacement

If any component of the continuous in-tank monitor fails the annual test (or needs to be repaired or replaced at any other time) the defective component must be repaired or replaced within 30 days of the discovery of the need for the repair or replacement. The new or replaced component must pass an operational test before the continuous in-tank monitor is returned to service **[310 CMR 80.26 (12)].**

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G6. Continuous In-Tank Monitoring?

If the facility does not have this type of leak detection system, answer N/A to Question G6. No other questions in this section need to be answered.

G6A. Are there records of passing test results for required annual system test?

The continuous in-tank monitor must be tested annually to ensure that it is working properly. These tests are usually conducted by a testing company. Records of the testing must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.26(5)(f) and 310 CMR 80.36]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are records show that the continuous in-tank monitoring system has been tested annually to verify that the system is working properly, and
- Records show that the system passed all the annual tests.

Answer NO if EITHER or BOTH statements are TRUE:

Since the last third-party inspection:

- Records show that the continuous in-tank monitoring system did NOT pass one or more of the annual tests conducted, and/or
- Records show that the system was not tested annually

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G6. Continuous In-Tank Monitoring

G6B. As a result of failed test results [310 CMR 80.26(5)(f)]: Are there records of system repair of replacement in accordance with 310 CMR 80.33?

If a continuous in-tank monitor fails an annual test, the components that failed must be repaired or replaced by a qualified individual within 30 days of the failed annual test and records kept regarding the testing and the repairs/replacement. The UST Owner or Operator may also inform MassDEP in writing within 30 days of the discovery of the need for repair or replacement that the repairs cannot be conducted within that timeframe and provide MassDEP with information as to the circumstances. Records are maintained in accordance with 310 CMR 80.36. **[310 CMR 80.26(4)(c); 310 CMR 80.33(4); 310 CMR 80.33(5); 310 CMR 80.33(7) and 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that the continuous in-tank monitor failed the annual test, and
- Records show that the continuous in-tank monitor was repaired or replaced by a qualified individual in accordance with the manufacturer's specifications within 30 days of the failed test.

Answer NO if the following statements are TRUE:

Since the last third-party inspection:

- Records show that the in-tank monitor failed the annual test, and
- There are no records to show that the failed components were repaired or replaced, or
    - The components were not repaired or replaced by a qualified individual, or
    - The components were not repaired or replaced within 30 days of the failed test.

Answer N/A if:

Since the last third-party inspection:

- Records show that the in-tank monitoring system passed all annual tests.

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G6. Continuous In-Tank Monitoring

G6C: As a result of a failed results (310 CMR 80.26(5)(f): Are there records of repaired or replaced system components passing operational tests prior to being returned to service?

Components of leak detection systems that are repaired or replaced must be tested for proper operation prior to putting them into service. Any components of the continuous in-tank monitoring system that failed the annual test and needed to be repaired or replaced must be tested prior to putting them into service. The UST Owner and Operator must also maintain records of the repair or replacement according to 310 CMR 80.36. **[310 CMR 80.26(12) and 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that the continuous in-tank monitoring system failed the annual operational test, and
- Records show that the failed component(s) was repaired or replaced, and tested for proper operation before the in-tank monitoring system was returned to service.

Answer NO if the following statements are TRUE:

Since the last third-party inspection:

- Records show that the continuous in-tank leak monitoring system failed the annual operational test, and
- There are no records showing that the failed component was repaired or replaced, and/or
- There are no records that the components were tested for proper operation before the in-tank monitoring system was returned to service.

Answer N/A if:

Since the last third-party inspection:

- Records indicate that the continuous in-tank monitoring system passed all annual operational tests.

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G6. Continuous In-Tank Monitoring

G6D. Are there records of monthly monitoring results in accordance with 310 CMR 80.26(5)(c)?

At the end of each calendar month, the continuous in-tank monitoring system shows whether there were any indications of a release or leakage during the month. If the system does not indicate that a release or leakage has occurred, the system is considered to have has passed the monthly test. Records are maintained according to 310 CMR 80.36. **[310 CMR 80.19(3)(b)3.; 310 CMR 80.26(5)(c) and 310 CMR 80.36]**

Answer YES if the following statement is TRUE:

Since the last third-party inspection:

- Records show that the continuous in-tank monitor produced a test of the tank every month

Answer NO is the following statement is TRUE:

Since the last third-party inspection:

- There are no records, or there are missing records, showing that the continuous in-tank monitor did not produce a test of the tank every month.

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G6. Continuous In-Tank Monitoring

G6E: For each month the system indicated a "release or leakage", are there records of a tightness test being conducted within 72 hours of the end of the calendar month?

If at the end of the calendar month, the continuous in-tank monitor indicates a release or leakage, the UST Owner or Operator must conduct a tightness test of the tank in accordance with 310 CMR 80.32 within 72 hours of the end of the calendar month.

Records are maintained in accordance with 310 CMR 80.36. **[310 CMR 80.26(5)(c) and 310 CMR 80.36]**

Answer YES if the following statement is TRUE:

Since the last third-party inspection:

- Records show that the continuous in-tank monitor indicated a 'release or leakage', and
- Records show that a tightness test was conducted within 72 hours of obtaining knowledge of the release

Answer NO is the following statement is TRUE:

Since the last third-party inspection:

- Records show that the continuous in-tank monitor indicated a 'release or leakage', and
- There are no records, or there are missing records, showing that a tightness test was conducted for each month where the continuous in-tank monitor indicated a 'release or leakage'.

Answer N/A if the following is true:

Since the last third-party inspection:

- The continuous in-tank monitor did not report any 'releases or leakage'

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G6. Continuous In-Tank Monitoring

G6F: As a result of a failed tightness test, are there records of compliance with the requirements of 310 CMR 80.32(3)?

310 CMR 80.32(3) are the regulations that apply to facilities that have had tightness testing failures. A tank or pipe fails a tightness test if the test indicates that the system is not tight and that there has been a release or leakage. The tightness test must be conducted by a certified UST system tightness tester. If an UST system fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure. The UST Owner or Operator must also comply with release notification procedures, as follows:

If a tank has had a release of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 24 hours after obtaining knowledge of the release
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If a tank has had leakage of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 72 hours of obtaining knowledge of the leakage
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If piping is the source of leakage or a release, the Owner or Operator must:

- Immediately isolate and empty the source of the leakage or release
- Have the piping replaced or repaired, or permanently close-in-place or remove the UST system
- Comply with MassDEP notification procedures, as applicable

All repairs or replacements must be completed within 30 days, unless the UST Owner or Operator notifies the MassDEP in writing of the need for an extended timeline, or if the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service.
[310 CMR 80.32(3); 210 CMR 80.33, 310 CMR 80.38; 310 CMR 80.39; 310 CMR 80.36 and 310 CMR 40.0300]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show a failed tank or piping tightness test, and

- Records show the failed tank was emptied within 24 hours if there was a release to the environment, within 72 hours if records indicate leakage, or failed piping was isolated and immediately emptied of regulated substance, and
- Records show one or more of the following steps were taken:
    - The tank or piping was removed
    - The tank or piping was permanently closed-in-place
    - The tank or piping was repaired or replaced and re-certified or re-warranted by the manufacturer within 30 days of the failed test, or if the repair or replacement could not be completed within 30 days (unless the MassDEP was notified that the repair could not be completed in 30 days) , placed temporarily out-of-service.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tank or piping tightness test, and
- The criteria above were not met.

Answer N/A if:

Since the last third-party inspection:

- There are no records of failed tank or piping tightness tests

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Overview of In-Tank Monitoring Using Statistical Inventory Reconciliation (SIR)

The twelve questions following this heading in the checklist, listed as 7A through 7L, apply to in-tank monitoring systems (static automatic tank gauges (ATG) or continuous statistical leak detection systems (CSLD)) used with statistical inventory reconciliation (SIR) to provide leak detection. If this facility does not use this method of leak detection, check N/A for Question G7.

The third-party inspection form has three sections relating to using static ATG with SIR – In-Tank Monitoring System (questions 7A through 7C); Continuous In-Tank Monitoring System (questions 7D through 7F); and leak detection results by the qualified SIR vendor (questions 7G through 7L).

Introduction

Statistical Inventory Reconciliation (SIR) is a method of leak detection for tanks and piping where a trained professional uses sophisticated computer software to conduct statistical analyses of inventory, delivery and dispensing data, which is gathered periodically and supplied to the SIR provider. Massachusetts regulations require that the measurements used for SIR leak detection analysis be made with an in-tank monitoring system, either a static ATG or a continuous statistical leak detection monitor (CSLD). ATGs and CSLDs used to gather tank information to be used for SIR analyses must be tested annually for proper operation.

SIR, when performed according to the vendor's specifications, meets the release detection requirements of 0.2 gallons per hour with the probability of detection of 95% and the probability of a false alarm of 5% as determined by independent testing laboratories using standard test procedures provided by EPA. This is the only in-tank monitoring system that can provide leak detection information for both the tank and piping with one test method. SIR is different from a continuous statistical in-tank leak detection (CSLD) monitoring systems in that SIR data is processed on a monthly basis involving a separate analysis that is performed on the facility data by an SIR provider or SIR software, whereas CSLD systems process data from the monitor on an on-going, uninterrupted manner. If the monthly SIR analysis does not identify a release or leakage of regulated substance, the UST system is considered to have been tight for the month.

Qualified SIR providers can be found at the National Working Group on Leak Detection Evaluation website: www.nwglde.org

If an SIR analysis determines that a leak or release may have occurred, the UST Owner or Operator must immediately conduct an investigation to determine if there has been leakage or a release. The investigation must be concluded within 72 hours. If the investigation cannot determine that there has been no release or leakage, a tightness test of the tank and/or piping within 72 hours of the inconclusive investigation. If the UST system fails the tightness test, the certified tester must immediately (but in no case event later than 24 hours of the failed test) notify the Owner and Operator, and the local fire department of the failure. The Owner or Operator must notify MassDEP through the Massachusetts Contingency Plan regulations [310 CMR 40.0300]. If the tank and piping pass the tightness test, the system is considered to be tight for that calendar month.

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NOTE: Failure to install leak detection equipment according to 310 CMR 80.19 is a serious violation that can cause an Owner and Operator to be issued a delivery prohibition order. The TPI has an obligation to immediately (but no later than 24-hours after obtaining knowledge of the violation) advise the Owner or Operator of this violation and advise the Owner or Operator of their obligation to notify the MassDEP of the violation condition within 24-hours after obtaining knowledge of the violation [310 CMR 80.49(5)(a)8. and 310 CMR 80.48(2)]. If the TPI does not receive written confirmation from the Owner or Operator that MassDEP has been notified within the regulatory timeframe, the TPI must notify the MassDEP no later than 48-hours after the original notification to the Owner or Operator of the violation condition at the facility.

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G7. In-Tank Monitoring System with SIR?

The following three questions (7A through 7C) apply to in-tank monitoring systems (static ATGs) used with statistical inventory reconciliation (SIR) to provide leak detection. Answer these three questions if the UST is equipped with a static ATG (one that conducts leak detection tests only when there is no fuel dispensing or delivering occurring). If the facility does not use this type of leak detection system answer N/A to Question G5. No other questions in this section need to be answered.
[310 CMR 80.19(3)(b)4; 80.26(6)].

In-Tank Monitoring System with SIR

G7A. Are there records of passing test results for required annual System tests?

Leak detection systems must be tested annually to confirm that they are in good working condition and are operating properly. These tests are generally conducted by contractors. The Owner and Operator must retain copies of the annual tests for four years. **[310 CMR 80.26(6)(f) and 310 CMR 80.36(1)(f)]**

Answer YES if EITHER combination of the following statements are TRUE:

Since the last third-party inspection:

- Records show that the in-tank monitoring system (static ATG) was tested annually for proper operation, and
- The records show that the in-tank monitoring system passed every annual test since the last third-party inspection, or
- Records show that the static ATG failed one or more of the annual tests and the failed components were repaired or replaced within 30 days of the discovery of the failure and were tested for proper operation prior to being put into service.

Answer NO if EITHER of the following statements is TRUE:

Since the last third-party inspection:

- There are one or more missing records, or no records, of annual tests of the static ATG , or
- One or more of the annual tests on the static ATG show a failed test, and there are no records that show repairs or replacements were conducted or that the repaired or replaced components were tested for proper operation prior to being put back into service.

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In-Tank Monitoring System with SIR

G7B. As a result of failed System tests (310 CMR 80.26(6)(f)): Are there records of System repair or replacement in accordance with 310 CMR 80.33?

All leak detection equipment must be tested annually to confirm that they are working properly. If the static ATG fails an annual test, it must be repaired or replaced by a qualified individual within 30 days of the failed test by a qualified individual. The UST Owner or Operator may also inform MassDEP in writing within 30 days of the discovery of the need for repair or replacement that the repairs cannot be conducted within that timeframe and provide MassDEP with information as to the circumstances. Records are maintained in accordance with 310 CMR 80.36. **[310 CMR 80.26(6)(f); 310 CMR 80.33(4) through (7); and 310 CMR 80.36(1)].**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show one or more components of the static ATG failed the annual system test, and
- Records show that the failed component(s) were repaired or replaced within 30 days of the failed test.

Answer NO if BOTH of the following statements are TRUE:

Since the last third party inspection:

- Records show that one or more components of the static ATG failed the annual system test, and
- There are no records showing that the failed component(s) of the ATG was repaired or replaced within 30 days of the failed test.

Answer N/A if:

Since the last third-party inspection:

- Records show that he static ATG passed all annual operational tests.

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In-Tank Monitoring System with SIR

G7C. As a result of failed System tests (310 CMR 80.26(6)(f)): Are there records of repaired or replaced System components passing operational tests prior to the system being returned to service?

Any repairs or replacements performed on UST systems or components must be completed within 30 days of obtaining knowledge of the need for the repair of replacement. Before the repaired or replaced UST system component can be put into service in the UST system, it must be tested for proper operation. The UST Owner or Operator must maintain records of these repairs, replacements and operational tests for four years. **[310 CMR 80.26(12) and 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that one or more components of the static ATG system failed the annual test, and
- Records show that the failed component(s) was repaired or replaced, and were subsequently tested for proper operation before the component(s) was returned to service.

Answer NO if EITHER combination of the following statements are TRUE:

Since the last third-party inspection:

- Records show that one or more components of the static ATG failed the annual test, and
- There are no records showing that the failed component(s) was repaired or replaced, or
- There are no records showing that the repaired or replaced component(s) was tested prior to being put back into service.

Answer N/A if:

Since the last third-party inspection:

- Records show that the static ATG components passed all annual operational tests.

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Continuous In-Tank Monitoring System

The following three questions (7D through 7F) apply to continuous statistical leak detection (CSLD) monitoring systems used with statistical inventory reconciliation (SIR) to provide leak detection. Answer the following three questions if the CSLD is one that conducts integrity tests without interrupting fuel dispensing or delivery activity. If this facility does not use this method of leak detection, answer the Question above as N/A. No other questions in this section need to be answered.
[310 CMR 80.19(3)(b)4. and 310 CMR 80.26(6)].

Continuous In-Tank Monitoring System

G7D. Are there records of passing test results for required annual System tests?

All leak detection equipment must be tested annually to confirm that they are working properly. If the CSLD fails an annual test, it must be repaired or replaced within 30 days of the failed test by a qualified individual unless the UST Owner or Operator notifies MassDEP in writing that they need the timeline extended. Records of the annual tests and repairs and replacements must be maintained**. [310 CMR 80.26(6)(f) and 310 CMR 80.33(4)]**

Answer YES if EITHER combination of the following statements is TRUE:

Since the last third-party inspection:

- Records show that the CSLD monitoring system was tested annually for proper operation, and
- Records show that the CSLD monitoring system passed all the annual tests, or
- Records show that the CSLD monitoring system failed one or more of the annual tests and
    - the failed component(s) was repaired or replaced within 30 days of the discovery of the failure and
    - the component(s) was tested for proper operation prior to being put into service.

Answer NO if EITHER of the following statements is TRUE:

Since the last third-party inspection:

- There are no records, or missing records, showing that the CSLD monitoring system was tested annually for proper operation, or
- Records show that the CSLD monitoring system failed one or more of the annual tests, and
    - There are no records showing that the failed component(s) was repaired or replaced within 30 days of the discovery of the failure.

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Continuous In-Tank Monitoring System

G7E. As a result of failed test results (310 CMR 80.26(5)(f)): Are there records of System repair or replacement in accordance with 310 CMR 80.33?

All leak detection equipment must be tested annually to confirm that they are working properly. If the CSLD monitoring system fails an annual test, it must be repaired or replaced within 30 days of the failed test by a qualified individual. The UST Owner or Operator may also inform MassDEP in writing within 30 days of the discovery of the need for repair or replacement that the repairs cannot be conducted within that timeframe and provide MassDEP with information as to the circumstances. Records of the annual tests, and repairs and replacements must be maintained for four years. **[310 CMR 80.26(6)(f); 310 CMR 80.33(4) through (7); and 310 CMR 80.36(1)].**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show one or more components of the CSLD monitoring system failed to operate properly, and
- Records show that the failed component(s) was repaired or replaced within 30 days of the failure.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show one or more components of the continuous in-tank monitoring system failed to operate properly, and
- There are no records showing that the failed component(s) of the ATG was repaired or replaced within 30 days of the failed test.

Answer N/A if:

Since the last third-party inspection:

- Records show that since the last third-party inspection, the CSLD monitoring system passed all annual operational tests.

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Continuous In-Tank Monitoring System

G7F. As a result of failed test results (310 CMR 80.26(5)(f)): Are there records of repaired or replaced system components passing operational tests prior to being returned to service?

Any repairs or replacements performed on UST systems or components must be completed within 30 days of obtaining knowledge of the need for the repair of replacement unless the UST Owner or Operator notifies MassDEP in writing that they need the timeline extended. Before the repaired or replaced UST system component can be put into service in the UST system, it must be tested for proper operation. The UST Owner or Operator must maintain records of these repairs, replacements and operational tests for four years. **[310 CMR 80.26(12) and 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that one or more components of the CSLD monitoring system failed to operate properly, and
- Records show that the failed component(s) was repaired or replaced and were subsequently tested for proper operation before the DSLD monitoring system was returned to service.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that one or more components of the continuous in-tank monitoring system failed to operate properly, and
- There are no records showing that the failed component(s) was repaired or replaced, or
- There are no records showing that the repaired or replaced components were tested prior to being put into service.

Answer N/A if:

- Records indicate that since the last third-party inspection, CSLD monitoring system components operated properly at all times.

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The following six questions (7G through 7E) apply to the statistical inventory reconciliation (SIR) portion of the "in-tank monitoring system with SIR method of leak detection".

Continuous In-Tank Monitoring System

G7G. Are there monthly records of inventory analyses to determine if the UST System has a release or leakage?

MassDEP regulations require that facilities using SIR for leak detection must use electronic monitoring systems to obtain the data the SIR vendor requires to conduct the analysis. These can be a static ATG or a CSLD monitoring system. These monitoring systems gather the necessary data from the UST system and submit it to the SIR vendor. The SIR vendor conducts the leak detection analyses on a monthly basis and submits their findings to the UST Owner or Operator. As with the other methods of leak detection permitted by the regulations, the SIR analyses must be conducted monthly and there must be a passing test. If the SIR analysis does not produce a passing test, the Owner or Operator must comply with the regulations at 310 CMR 80.26(6)(c) or (d). **[310 CMR 80.26(6)(a) and (b)]**

Answer YES if the following statement is TRUE:

Since the last third-party inspection:

- There are records documenting that each UST system using SIR for leak detection has had inventory records analyzed each month since the last third-party inspection.

Answer NO if the following statement is TRUE:

Since the last third-party inspection:

- There are no records, or missing records, showing that each UST system using SIR for leak detection has had inventory records analyzed each month since the last third party inspection

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Continuous In-Tank Monitoring System

G7H. For each month the analysis conclusively identifies a release or leakage, are there records a tightness test was conducted within 72 hours of knowledge of suspected release or leakage?

If an SIR analysis conclusively determines that an UST system has had a release or leakage, the UST Owner or Operator must conduct a tightness test of the UST system within 72 hours of obtaining knowledge of the possible release or leakage. If the UST system passes the tightness test, the UST system is considered to be tight for that calendar month. If the UST system fails the tightness test, the UST Owner or Operator must notify the MassDEP according to 310 CMR 40.0300. **[310 CMR 80.26(6)(c)]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There have been one or more SIR analyses with a conclusive test result indicating a release or leakage, and
- Records show that for each conclusive SIR analysis indicating a release or leakage, a tightness test of the tank and piping was conducted within 72 hours of the UST Owner or Operator having knowledge of the conclusive SIR test.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There have been one or more SIR analyses with a conclusive test result indicating a release or leakage, and
- There are no records, or missing records, showing that a tightness test was conducted on the UST system within 72 hours of the UST Owner or Operator having knowledge of each conclusive SIR test.

Answer N/A if:

Since the last third-party inspection:

- All monthly test results using SIR analyses have determined that there was no leakage or releases from the UST system.

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Continuous In-Tank Monitoring System

G7I. For each month the analysis is inconclusive on whether there is a release or leakage, are there records an investigation was concluded within 72 hours of knowledge of suspected release or leakage?

All UST systems must have a monthly test result that shows that the tank did not have any leakage or releases during the previous month. If a facility uses an in-tank monitor with SIR, the SIR analysis must be reviewed each month. If the SIR analysis shows an inconclusive test at the end of the calendar month, which means that the SIR analysis could not determine if leakage or a release had occurred, the UST Owner or Operator must conduct an investigation within 72 hours to determine if there was a release or leakage from the UST system. **[310 CMR 80.26(6)(d)]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There has been one or more SIR analyses with an "inconclusive" test result, and
- Records show that for each inconclusive SIR analysis an investigation was conducted to determine whether there was a release or leakage, and the investigation was concluded within 72 hours of the UST Owner or Operator obtaining knowledge of each of the inconclusive SIR result.

Answer NO if EITHER combination of the following statements is TRUE:

Since the last third-party inspection:

- There has been one or more SIR analyses with a "inconclusive" test result, and
- There are no records, or missing records, showing that an investigation was conducted; or
- The investigation was not concluded within 72 hours of the UST Owner or Operator obtaining knowledge of each of the inconclusive SIR result.

Answer N/A if:

Since the last third-party inspection:

- There have been no SIR analyses with "inconclusive" test results.

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Continuous In-Tank Monitoring System

G7J. For each investigation unable to determine there is not a release or leakage, are there records a tightness test was conducted within 72 hours of the conclusion of the investigation?

If the UST Owner or Operator cannot determine through the investigation that the UST system has not had a release or leakage, a tightness test must be conducted within 72 hours of the conclusion of the investigation. The tightness test must be conducted according to 310 CMR 80.32 **[310 CMR 80.26(6)(d)]**.

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There was an investigation conducted and concluded within 72 hours of any inconclusive SIR results and the investigation could not determine whether the UST system had or did not have a release or leakage, and
- Records show that a tightness test was conducted within 72 hours of the inconclusive investigation.

Answer NO if EITHER combination of the following statements is TRUE:

Since the last third-party inspection:

- There was an investigation conducted and concluded within 72 hours of any inconclusive SIR results, and the investigation could not determine whether the UST system had or did not have a release or leakage, and
- Records show that a tightness test was not conducted within 72 hours of the inconclusive investigation, or
- There are no records showing that a tightness test was conducted.

Answer N/A if:

Since the last third-party inspection:

- There have been no inconclusive SIR results for any of the UST systems using in-tank monitoring with SIR for their method of leak detection.

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Continuous In-Tank Monitoring System

G7K. As a result of failed tightness tests, are there records of compliance with the requirements of 310 CMR 80.32(3)?

310 CMR 80.32(3) are the regulations that apply to facilities that have had tightness testing failures. A tank or pipe fails a tightness test if the test indicates that the system is not tight and that there has been a release or leakage. The tightness test must be conducted by a certified UST system tightness tester. If an UST system fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure. The UST Owner or Operator must also comply with release notification procedures, as follows:

If a tank has had a release of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 24 hours after obtaining knowledge of the release
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If a tank has had leakage of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 72 hours of obtaining knowledge of the leakage
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If piping is the source of leakage or a release, the Owner or Operator must:

- Immediately isolate and empty the source of the leakage or release
- Have the piping replaced or repaired, or permanently close-in-place or remove the UST system
- Comply with MassDEP notification procedures, as applicable

All repairs or replacements must be completed within 30 days, unless the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service.
[310 CMR 80.32(3); 210 CMR 80.33, 310 CMR 80.38; 310 CMR 80.39; and 310 CMR 40.0300]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show a failed tank or piping tightness test, and
- Records show the failed tank was emptied within 24 hours if there was a release to the environment, within 72 hours if records indicate leakage, or failed piping was isolated and immediately emptied of regulated substance, and
- Records show one or more of the following steps were taken:

- The tank or piping was removed
- The tank or piping was permanently closed-in-place
- The tank or piping was repaired or replaced and re-certified or re-warranted by the manufacturer within 30 days of the failed test, or if the repair or replacement could not be completed within 30 days (unless the MassDEP was notified that the repair could not be completed in 30 days) , placed temporarily out-of-service.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tank or piping tightness test, and
- The criteria above were not met.

Answer N/A if:

Since the last third-party inspection:

- There are no records of failed tank or piping tightness tests.

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Continuous In-Tank Monitoring System

G7L. Are all inventory analyses conducted by a qualified SIR vendor?

Statistical Inventory Reconciliation (SIR) is an advanced statistical method of analyzing data from an in-tank monitor (and ATG or CSLD) that can determine if the tank or the piping has had leakage or a release. SIR must be conducted by a qualified SIR vendor. SIR vendors who are qualified to do this inventory reconciliation are listed on the National Work Group on Leak Detection Evaluations (NWGLDE). The information can be found on their website: www.nwglde.org **[310 CMR 80.26(6)(a)]**

Answer YES if:

Since the last third party inspection:

- All monthly statistical inventory reconciliations were completed by a qualified SIR vendor

Answer NO if:

Since the last third party inspection:

- One or more of the monthly statistical inventory reconciliations were not conducted by a qualified SIR vendor.

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Overview of Monitoring for Vapors in the Soil

PLEASE NOTE: As of January 2, 2017, monitoring for vapors in soil is NOT an accepted method of leak detection and is not permitted to be used at UST facilities within Massachusetts.

Until January 2, 2017, measuring the level of petroleum vapors in observation ports in the vicinity of the UST system was an acceptable method of leak detection. As of January 2, 2017, however, this method of leak detection is prohibited and may no longer be used to meet leak detection requirements in Massachusetts **[310 CMR 80.19(3)(b)5]**. The UT Owner and Operator must have in-place an acceptable method for leak detection after January 2, 2017 as follows:

For tanks installed on or after January 2, 1989:

- Continuous interstitial Monitoring: this method must be used for UST installed after January 2, 1989

For tanks installed before January 2, 1989, the following leak detection methods are acceptable:

- Automatic tank gauging (ATG); monthly static testing to satisfy the monthly testing requirement
- Continuous Statistical Leak Detection (CLDS); using an ATG that continuously pulls data to satisfy the monthly testing requirement
- Statistical Inventory Reconciliation using an Automatic Tank Gauge (SIR): using an Automatic Tank Gauge and an approved SIR vendor to satisfy the monthly testing requirement

Answer the questions in this section using "N/A". If you are inspecting an UST system that is still using soil vapor monitoring as their method of leak detection, you, as the TPI, must comply with the following:

NOTE: Failure to install leak detection equipment according to 310 CMR 80.19 is a serious violation that can cause an Owner and Operator to be issued a delivery prohibition order. The TPI has an obligation to immediately (but no later than 24-hours after obtaining knowledge of the violation) advise the Owner or Operator of this violation and advise the Owner or Operator of their obligation to notify the MassDEP of the violation condition within 24-hours after obtaining knowledge of the violation [310 CMR 80.49(5)(a)8. and 310 CMR 80.48(2)]. If the TPI does not receive written confirmation from the Owner or Operator that MassDEP has been notified within the regulatory timeframe, the TPI must notify the MassDEP no later than 48-hours after the original notification to the Owner or Operator of the violation condition at the facility.

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Overview of Manual Tank Gauging

For Tanks with a Capacity of 1,000 Gallons or Less
Supplying Fuel to Emergency Generators and Emergency Engine Driven Pumps

The seven questions under this heading in the TPI Report, listed as 9A through 9G, apply to emergency generator tanks and emergency engine driven pumps, installed before January 2, 2015 and having a capacity of 1,000 gallons or less, that use manual tank gauging to conduct leak detection. These tanks can also use any of the other leak detection systems referenced in 310 CMR 80.19(3)(b)1., 2. 3. or 4.

If this facility does not use this method of leak detection, answer N/A for Question 9.

Introduction

Manual tank gauging is a form of leak detection that relies on weekly monitoring periods when the tank is taken out of service for 36 hours and the liquid volume is carefully monitored.

This method is only permitted for tanks with a capacity of 1000 gallons or less, installed before January 2, 2015, that are used to fuel emergency generators or emergency driven pumps. Tanks used for this purpose that were installed after this date must use continuous interstitial monitoring.
NOTE: There is another version of manual tank gauging for tanks over 1,000 gallons.

A discussion of how to use this method of leak detection can be found after Question G9B below.

If the liquid volume changes more than the amount specified in the table (see Question G9B), a leak or release is suspected. The UST Owner or Operator must do the following within 72-hours of obtaining knowledge of the discrepancy:

- Check the inventory monitoring records for mathematical errors, and
- Check the inventory records for any errors in measurements, including adding or dispensing fuel, time between measurements, etc.

If the abnormal values cannot be reconciled, the UST system must be tightness tested in accordance with 310 CMR 80.32. If the UST system passes the tightness test, it is considered to be tight. If the UST system fails the tightness test, the UST Owner or Operator must follow the procedures at 310 CMR 80.32(3). If the UST system passed the tightness test, the investigation is concluded and the tank is considered to be tight. **{310 CMR 80.31(1)(e) through (g) and 310 CMR 80.32]**

G9**.** *Manual Tank Gauging for Emergency Generator Tanks and Emergency Engine Driven Pumps (1000 gallons or less), installed before January 2, 2015, and conduct weekly tank gauging as primary leak detection.*

If the facility does not have this type of leak detection system or if the facility has an ATG, but does not use it for leak detection, answer N/A to Question G9. No other questions in this section need to be answered.

Manual Tank Gauging for Tanks 1,000 Gallons or Less

G9A. Is the gauge stick or tape correctly calibrated to the nearest 1/8th of an inch?

The equipment used to conduct manual tank gauging must be calibrated and marked to 1/8 inch or less. **[310 CMR 80.26(7)(b)3.]**

Answer YES if the following are TRUE:

- The gauge stick or tape used to conduct manual tank gauging is marked to 1/8 inch or less.

Answer NO if the following is TRUE:

- The gauge stick or tape used to conduct manual tank gauging is marked with measurements greater than 1/8 inch.

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Manual Tank Gauging for Tanks 1,000 Gallons or Less

G9B. Are there records of manual tank gauging being taken and recorded correctly every 7 days in accordance with 310 CMR 80.26(7)(b)?

Manual tank gauging must be conducted every 7 days. Measurements of the regulated substance within the tank are conducted as follows:

- Measurements are taken using a gauge stick or measuring tape with measurement markings of 1/8 of an inch. The gauge stick or measuring tape must be capable of measuring the level of regulated substance over the full range of the tank's height to the nearest 1/8 inch.
- Tank level measurements are taken and recorded, at the beginning and end of a 36-hour period during which no regulated substance is added or removed from the tank. The records must include the date and time of measurements.
- Two consecutive stick readings must be taken at the beginning of the 36-hour period and the readings averaged. Two consecutive stick readings must also be taken at the end of the 36-hour period and averaged.
- If the liquid volume change between these two averaged readings exceeds the Weekly Standard listed on the table below, of if the four averaged readings exceeds the Monthly Standard below, leakage or a release is suspected and must be investigated according to 310 CMR 80.31(1)(e) through (g).

Nominal Tank Capacity	Weekly Standard (One Test)	Monthly Standard (Average of Four Tests)
500 gallons or less	10 gallons	5 gallons
501 through 1,000 gallons	13 gallons	7 gallons

[310 CMR 80.26(7)(a), (b) 1., 2., and 3.]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection, records show:

- Manual tank gauging was conducted every seven days, and
- Measurements were taken using a gauge stick or measuring tape with measurement markings of 1/8 of an inch. The gauge stick or measuring tape is be capable of measuring the level of regulated substance over the full range of the tank's height to the nearest 1/8 inch, and
- The time between the beginning and ending manual tank gauging measurements was at least 36 hours, and
- The beginning and ending manual tank gauging measurements consisted of the average of two consecutive gauge stick or measuring tape measurements.

Answer NO if ANY of the following are TRUE:

Records indicate that since the last third-party inspection:

- Manual tank gauging was not conducted every seven days, or

- Measurements were not taken using the correctly marked gauge stick or measuring tape, or
- The time between the beginning and ending manual tank gauging measurements was less than 36 hours, or
- The beginning and ending manual tank gauging measurements was not the average of two consecutive gauge stick or measuring tape measurements.

Manual Tank Gauging for Tanks 1,000 Gal or Less

G9C. Since the last third-party inspection, or for the four years prior to the date of inspection, whichever is less, do all monthly tank gauging records show that there were no suspected releases or leakage (abnormal regulated substance loss)?

Records of weekly tank gauging and weekly tank gauging analysis conducted since the last third-party inspection should be reviewed. Weekly tank gauging averages must be compared to the table below. If the regulated substance volume change between these two averaged readings exceeds the Weekly Standard listed on the table below, leakage or release is suspected and must be investigated according to 310 CMR 80.31(1)(e) through (g) (see Response to a Failed Test). Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.26(7)(b)4. and 310 CMR 80.36]**

Nominal Tank Capacity	Weekly Standard (One Test)	Monthly Standard (Average of Four Tests)
500 gallons or less	10 gallons	5 gallons
501 through 1,000 gallons	13 gallons	7 gallons

Answer YES if BOTH of the following are TRUE:

Since the last third-party inspection, records show that:

- manual tank gauging was conducted every seven days, and
- none of the weekly tank gauging records show that the allowable regulated substance variance was exceeded.

Answer NO if EITHER of the following is TRUE:

- manual tank gauging was not conducted every seven days, or
- one or more of the weekly tank gauging records show that the allowable regulated substance variance was not exceeded.

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Manual Tank Gauging for Tanks 1,000 Gallons or Less

G9D. For each abnormal regulated substance loss event, are there records that an investigation was concluded within 72 hours of discovery of the abnormal regulated substance loss in accordance with 310 CMR 80.31(1)(e)?

If an abnormal regulated substance loss is indicated, the UST Owner or Operator must check the inventory input and output records for math errors, and check the inventory for errors in measuring within 72 hours of discovery of the exceedances. If the loss cannot be explained, the UST system must be tightness tested. **[310 CMR 80.26(7)(b)4. and 310 CMR 80.31(1)(e)]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are one or more records showing that the applicable weekly or monthly standard was exceeded (see table below), and
- Records indicate that an investigation of the measurements and calculations associated with the exceedance was completed within 72 hours of the discovery of the exceedances.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are one or more records showing exceedances of the applicable weekly or monthly standard (see table below).
- There are no records, or missing records, that show that each exceedance was investigated within 72 hours of their discovery.

Nominal Tank Capacity	Weekly Standard (One Test)	Monthly Standard (Average of Four Tests)
500 gallons or less	10 gallons	5 gallons
501 through 1,000 gallons	13 gallons	7 gallons

Answer N/A if:

Since the last third-party inspection:

- There are NO records indicating exceedances of weekly or monthly manual tank gauging standards.

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Manual Tank Gauging for Tanks 1,000 Gallons or Less

G9E. For each investigation that is unable to reconcile an abnormal regulated substance loss event, are there records a tightness test was conducted?

If the manual tank gauging data indicates an exceedance from the weekly or monthly standards and the data cannot be reconciled, the UST system must be tightness tested in accordance with 310 CMR 80.32. **[310 CMR 80.26(7)(c); 310 CMR 80.31(1)(f); and 310 CMR 80.32]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are one or more records showing exceedances of the weekly or monthly standards, and
- Records show that the subsequent investigation(s) concluded that there was an exceedance, and,
- Records show a tightness test of the tank was conducted.

Answer NO if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are one or more records showing exceedances of the weekly or monthly standards, and
- Records show that the subsequent investigation(s) concluded that there was an exceedance, and,
- There are no records, or missing records, showing that a tightness test was conducted.

Answer N/A if:

Since the last third-party inspection:

- Records indicate that there all manual tank gauging data was within the weekly and monthly standards and no exceedances were found.

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Manual Tank Gauging for Tanks 1,000 Gallons or Less

G9F. As a result of failed tightness tests, are there records of compliance with the requirements of 310 CMR 80.32(3)?

310 CMR 80.32(3) are the regulations that apply to facilities that have had tightness testing failures. A tank or pipe fails a tightness test if the test indicates that the system is not tight and that there has been a release or leakage. The tightness test must be conducted by a certified UST system tightness tester. If an UST system fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure. The UST Owner or Operator must also comply with release notification procedures, as follows:

If a tank has had a release of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 24 hours after obtaining knowledge of the release
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If a tank has had leakage of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 72 hours of obtaining knowledge of the leakage
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If piping is the source of leakage or a release, the Owner or Operator must:

- Immediately isolate and empty the source of the leakage or release
- Have the piping replaced or repaired, or permanently close-in-place or remove the UST system
- Comply with MassDEP notification procedures, as applicable

All repairs or replacements must be completed within 30 days, unless the UST Owner or Operator notifies the MassDEP in writing of the need for an extended timeline, or if the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service.
[310 CMR 80.32(3); 210 CMR 80.33, 310 CMR 80.38; 310 CMR 80.39; and 310 CMR 40.0300]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tightness test, and
- The failed tank was emptied within 24 hours of obtaining knowledge of a release, or 72 hours of obtaining knowledge of leakage, and
- One of the following steps were taken:

- The tank was removed, permanently closed-in-place, or taken temporarily out-of-service within 30 days, or
- Within 30 days of the failed test, the tank was repaired and recertified or re-warrantied by the tank manufacturer, and the tank passed a tightness test within 30 days of the repair.

Answer NO if ANY of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tank tightness test, and
- The failed tank was not emptied within 24 hours of obtaining knowledge of the release of within 72 hours of obtaining knowledge of leakage, and/or
- One of the following steps was not taken:
  - Within 30 days of the failed test, the tank was not removed, or permanently closed-in-place, or taken temporarily out-of-service, or
  - Within 30 days of the failed test, the tank was not repaired and recertified or re-warrantied by the tank manufacturer, or
  - The tank did not pass a tightness test within 30 days of the repair.

Answer N/A if:

Since the last third-party inspection:

- There are no records indicating a failed tightness test since the last third-party inspection.

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Manual Tank Gauging for Tanks 1,000 Gallons or Less

G9G. Are there records that a repaired tank passed a tightness test within 30 days of completion of the repair? **[310 CMR 80.26(7)(c), 310 CMR 80.33 and 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that one or more tanks were repaired due to manual tank gauging measurements that could not be reconciled, and
- Records show that any tanks that were repaired due to manual tank gauging measurements that could not be reconciled were tightness tested within thirty days of the repair or replacement.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that one or more tanks were repaired due to manual tank gauging measurement that could not be reconciled, and
- Records show that any tanks that were repaired due to manual tank gauging measurements that could not be reconciled were not tightness tested within thirty days of the repair or replacement.

Answer N/A if:

- Records show that since the last third-party inspection, all manual tank gauging measurement were reconciled and no leakage or releases were found.

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Overview of Manual Tank Gauging

For Tanks with a Capacity Greater than 1,000 Gallons
Supplying Fuel to Emergency Generators and Emergency Engine Driven Pumps

The nine questions under this heading in the TPI Report, listed as 10A through 10I, apply to emergency generator tanks and emergency engine driven pumps, installed before January 2, 2015 and having a capacity greater than 1,000 gallons that use manual tank gauging to conduct leak detection. Tanks using this type of leak detection must also conduct an annual tightness test in accordance with 310 CMR 80.32. These tanks can also use any of the other leak detection systems referenced in 310 CMR 80.19(3)(b)1., 2. 3. or 4.

If this facility does not use this method of leak detection, answer N/A for Question G10.

Introduction

Manual tank gauging is a form of leak detection that relies on monthly monitoring periods when the tank is taken out of service for 36 hours and the liquid volume is carefully monitored.

This method is only permitted for tanks with a capacity of greater than 1000 gallons, installed before January 2, 2015, that are used to fuel emergency generators or emergency driven pumps. Tanks used for this purpose that were installed after this date must use continuous interstitial monitoring.
NOTE: There is another version of manual tank gauging for tanks with a capacity of 1,000 gallons or less.

A discussion of how to use this method of leak detection can be found after Question G10D below.

If the liquid volume changes more than the amount specified in the table (see Question G10D), a leak or release is suspected. The UST Owner or Operator must do the following within 72-hours of obtaining knowledge of the discrepancy:

- Check the inventory monitoring records for mathematical errors, and
- Check the inventory records for any errors in measurements, including adding or dispensing fuel, time between measurements, etc.

If the abnormal values cannot be reconciled, the UST system must be tightness tested in accordance with 310 CMR 80.32. If the UST system passes the tightness test, it is considered to be tight. If the UST system fails the tightness test, the UST Owner or Operator must follow the procedures at 310 CMR 80.32(3). If the UST system passed the tightness test, the investigation is concluded and the tank is considered to be tight. **[310 CMR 80.31(1)(e) through (g) and 310 CMR 80.32]**

G10. Manual Tank Gauging for Emergency Generator Tanks and Emergency Engine Driven Pumps (1000 gallons or more), installed before January 2, 2015, that conduct weekly tank gauging as primary leak detection.

If the facility does not have this type of leak detection system or if the facility has an ATG, but does not use it for leak detection, answer N/A to Question G10. No other questions in this section need to be answered.

Manual Tank Gauging for Tanks Greater Than 1,000 Gallons

G10A. Is the equipment used to conduct manual tank gauging correctly calibrated to the nearest 1/8th of an inch?

The equipment used to conduct manual tank gauging must be calibrated to 1/8 inch of less. **[310 CMR 80.26(8)(b)3.]**

Answer YES if the following are TRUE:

- The equipment used to conduct manual tank gauging is calibrated to 1/8 inch or less.

Answer NO if EITHER of the following is TRUE:

- The equipment used to conduct manual tank gauging is not calibrated to 1/8 inch or less, or
- The equipment used to conduct manual tank gauging is marked with measurements greater than 1/8 inch

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Manual Tank Gauging for Tanks Greater Than 1,000 Gallons

G10B. Are there records of passing test results for annual tightness tests?

Tanks using this form of leak detection must also conduct an annual tightness test in accordance with 310 CMR 80.32. Records must be kept in accordance with 310 CMR 80.36. **[310 CMR 80.19(3)(d)3; 80.26(8), 310 CMR 80.32, and 310 CMR 80.36]**

Answer YES if BOTH of the following are TRUE:

Since the last third-party inspection:

- Records show that the tank(s) using this method of leak detection were tightness tested annually, and
- Records of all of the tightness tests show that the tank passed the test.

Answer NO if EITHER of the following is TRUE:

Since the last third-party inspection:

- There are no records, for one or more annual tightness tests, or
- Records show that one or more annual tightness tests was recorded as “failed”.

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Manual Tank Gauging for Tanks Greater Than 1,000 Gallons

G10C. As a result of a failed tightness test, are there records of compliance with the requirements of 310 CMR 80.32(3) ?

310 CMR 80.32(3) are the regulations that apply to facilities that have had tightness testing failures. A tank or pipe fails a tightness test if the test indicates that the system is not tight and that there has been a release or leakage. The tightness test must be conducted by a certified UST system tightness tester. If an UST system fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure. The UST Owner or Operator must also comply with release notification procedures, as follows:

If a tank has had a release of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 24 hours after obtaining knowledge of the release
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If a tank has had leakage of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 72 hours of obtaining knowledge of the leakage
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If piping is the source of leakage or a release, the Owner or Operator must:

- Immediately isolate and empty the source of the leakage or release
- Have the piping replaced or repaired, or permanently close-in-place or remove the UST system
- Comply with MassDEP notification procedures, as applicable

All repairs or replacements must be completed within 30 days, unless the UST Owner or Operator notifies the MassDEP in writing of the need for an extended timeline, or if the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service.
[310 CMR 80.32(3); 210 CMR 80.33, 310 CMR 80.38; 310 CMR 80.39; and 310 CMR 40.0300]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tightness test, and
- The failed tank was emptied within 24 hours of obtaining knowledge of a release, or 72 hours of obtaining knowledge of leakage, and
- One of the following steps were taken:

- The tank was removed, permanently closed-in-place, or taken temporarily out-of-service within 30 days, or
- Within 30 days of the failed test, the tank was repaired and recertified or re-warrantied by the tank manufacturer, and the tank passed a tightness test within 30 days of the repair.

Answer NO if ANY of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tank tightness test, and
- The failed tank was not emptied within 24 hours of obtaining knowledge of the release of within 72 hours of obtaining knowledge of leakage, and/or
- One of the following steps was not taken:
  - Within 30 days of the failed test, the tank was not removed, or permanently closed-in-place, or taken temporarily out-of-service, or
  - Within 30 days of the failed test, the tank was not repaired and recertified or re-warrantied by the tank manufacturer, or
  - The tank did not pass a tightness test within 30 days of the repair.

Answer N/A if:

Since the last third-party inspection:

- There are no records indicating a failed tightness test since the last third-party inspection.

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Manual Tank Gauging for Tanks Greater Than 1,000 Gallons

G10D. Are there records of manual tank gauging being correctly taken and recorded every 30 days?

Manual tank gauging must be conducted every 30 days. Measurements of the regulated substance within the tank are conducted as follows:

- Measurements are taken using a gauge stick or measuring tape with measurement markings of 1/8 of an inch. The gauge stick or measuring tape must be capable of measuring the level of regulated substance over the full range of the tank's height to the nearest 1/8 inch.
- Tank level measurements are taken and recorded at the beginning and end of a 36-hour period during which no regulated substance is added or removed from the tank. The records must include the date and time of measurements.
- Two consecutive stick readings must be taken at the beginning of the 36-hour period and the readings averaged. Two consecutive stick readings must also be taken at the end of the 36-hour period and averaged.
- If the liquid volume change between these two averaged readings exceeds the Monthly Standard on the table below, leakage or a release is suspected and must be investigated according to 310 CMR 80.31(1)(e) through (g).

Nominal Tank Capacity	Monthly Standard
More than 1000 gallons	7 gallons plus 2 gallons for every additional 1000 gallons capacity

[310 CMR 80.26(8)(a), (b) and (c) and 310 CMR 80.31(1)(e) through (g)]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection, records show:

- Manual tank gauging was conducted every 30 days, and
- Measurements were taken using a gauge stick or measuring tape with measurement markings of 1/8 of an inch. The gauge stick or measuring tape is capable of measuring the level of regulated substance over the full range of the tank's height to the nearest 1/8 inch, and
- The time between the beginning and ending manual tank gauging measurements was at least 36 hours, and
- The beginning and ending manual tank gauging measurements consisted of the average of two consecutive gauge stick or measuring tape measurements.

Answer NO if ANY of the following are TRUE:

Since the last third-party inspection records show that:

- Manual tank gauging was not conducted every 30 days, or
- Measurements were not taken using the correctly marked gauge stick or measuring tape, or
- The time between the beginning and ending manual tank gauging measurements was less than 36 hours, or

- The beginning and ending manual tank gauging measurements was not the average of two consecutive gauge stick or measuring tape measurements.

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Manual Tank Gauging for Tanks Greater Than 1,000 Gallons

G10E. Since the last third-party inspection, or for the four years prior to the date of the inspection, whichever is less, do all monthly tank gauging records show that there were no suspected releases or leakage?

Records of monthly tank gauging analysis conducted since the last third-party inspection should be reviewed. Monthly tank gauging averages must be compared to the table below. If the regulated substance volume change between these two averaged readings exceeds the Weekly Standard listed on the table below, leakage or release is suspected and must be investigated according to 310 CMR 80.31(1)(e) through (g) (see Response to a Failed Test). Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.26(8)(b) and 310 CMR 80.36(1)(g).]**

Nominal Tank Capacity	Monthly Standard
More than 1000 gallons	7 gallons plus 2 gallons for every additional 1000 gallons capacity

Answer YES if BOTH of the following are TRUE:

Since the last third-party inspection, records show that

- manual tank gauging was conducted every 30 days, and
- none of the monthly tank gauging records shows that the allowable regulated substance variances were exceeded.

Answer NO if EITHER of the following is TRUE:

Since the last third-party inspection, records show that:

- manual tank gauging was not conducted every 30 days, or
- one or more of the weekly tank gauging records show that the allowable regulated substance variance was exceeded.

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Manual Tank Gauging for Tanks Greater Than 1,000 Gallons

G10F. As a result of suspected release or leakage, are there records of inventory reconciliation in accordance with 310 CMR 80.31(1)(e)?

If an abnormal regulated substance loss is indicated, the UST Owner or Operator must check the inventory input and output records for math errors, and check the inventory for errors in measuring within 72 hours of discovery of the exceedances. If the loss cannot be explained, the UST system must be tightness tested. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.26(8)(c), 310 CMR 80.31(1)(e) and 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third party inspection:

- One or more records show that the applicable monthly standard was exceeded (see table below), and
- Records show that an investigation of the measurements and calculations associated with the exceedance was completed within 72 hours of the discovery of the exceedances.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- One or more records indicating exceedances of the applicable monthly standard (see table below), and
- There are no records to show that each exceedance was investigated within 72 hours of their discovery, or there are missing records for one or more exceedance.

Nominal Tank Capacity	Monthly Standard
More than 1000 gallons	7 gallons plus 2 gallons for every additional 1000 gallons capacity

Answer N/A if:

Since the last third-party inspection:

- No records show exceedances of weekly or monthly manual tank gauging standards.

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Manual Tank Gauging for Tanks Greater Than 1,000 Gallons

G10G. For each suspected release or leakage that cannot be reconciled, is there record of a tightness test being conducted?

If the manual tank gauging data indicates an exceedance from the monthly standard and the data cannot be reconciled, the UST system must be tightness tested in accordance with 310 CMR 80.32. Records must be maintained in accordance with 310 CMR 80.36.
[310 CMR 80.26(8)(c); 310 CMR 80.31(1)(f); 310 CMR 80.32 and 310 CMR 80.36]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- One or more records show exceedances of the monthly standards, and
- Records show that the subsequent investigation(s) concluded that there was an exceedance, and
- Records show a tightness test of the tank was conducted.

Answer NO if ALL of the following statements are TRUE:

Since the last third-party inspection:

- One or more records show exceedances of the monthly standards, and
- Records show that the subsequent investigation(s) concluded that there was an exceedance, and,
- There are no records showing that a tightness test was conducted.

Answer N/A if:

Since the last third-party inspection:

- Records show that all manual tank gauging data was within the monthly standards and no exceedances were found.

Question G10H has been deleted.

Question G10I has been deleted.

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Field Constructed Tanks of 50,000 Gallon Capacity or Greater using the Annual Bulk Tank Test

There are two questions to this section (11A through 11B).

Introduction

Field constructed tanks are those that are constructed on-site. These tanks can be constructed of any material that is approved per the regulations; however, there may be tanks constructed of concrete that were installed prior to 1989 found at facilities. Field-constructed tanks with a capacity greater than 50,000 gallons have three methods of leak detection available to them. The three options are summarized in the following Table.

Leak Detection Options for Field Constructed Tanks Over 50,000 Gallons

	In-Tank Monitor Test Frequency	In-Tank Monitor Test Accuracy	Bulk Tank Tightness Test Frequency	Bulk Tank Tightness Test Accuracy	Citation
Option 1			annually	0.5 gph	310 CMR 80.19(3)(c)1.
Option 2	Every 30 days	1 gph or less	triennially	0.2 gph	310 CMR 80.19(3)(c)2.
Option 3	Every 30 days	2 gph or less	biennially	0.2 gph	310 CMR 80.19(3)(c)3.

Bulk Tank Tightness Test

The accuracy of many methods of bulk tank tightness testing is a function of the surface area of the product at the time of the test. The accuracy of the bulk tank tightness method should be stated in the test results documenting the test. For additional information, consult the National Work Group on Leak Detection Evaluations web site: www.nwglde.org Click on the "Testing Methods" tab and then the listing for "Bulk Underground Storage Tank Leak Detection Method."

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Please note:
The following two questions are for Option 1 in the above table

Field Constructed Tanks – Annual Testing

G11A. Are there records of annual passing bulk tank tightness test results?

For Option 1 above, the UST Owner or Operator of field-constructed tanks must conduct bulk tank tightness testing annually at an accuracy of 0.5 gph. There is no 30-day monitoring required for this Option. Releases and/or leakage should be handled pursuant to 310 CMR 80.38 and 80.39. **[310 CMR 80.19(3)(c)1.; 310 CMR 80.38 and 310 CMR 80.39]**

Answer YES if ALL of the following are true:

Since the last third-party inspection,

- The tank was tightness test was conducted annually, and
- The tank tightness test could detect leaks or releases of 0.5 gallons per hour, and
- the field-constructed tanks passed all the annual tank tightness tests.

Answer NO if ANY of the following are TRUE:

Since the last third-party inspection,

- the tank was not tightness tested annually, or
- the tank tightness test could not detect leaks or releases of 0.5 gallons per hour, or
- one or more of the annual tightness tests was a 'fail'

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Field Constructed Tanks – Annual Testing

G11B. For UST systems that failed a tightness test, are there records of UST system repair or replacement in accordance with 310 CMR 80.33?

A tank that has released a regulated substance must be emptied immediately (but in no event longer than 24 hours) after obtaining knowledge of the release. A tank that has had leakage of a regulated substance must be emptied immediately, but in no even longer than 72 hours, of obtaining knowledge of the leakage. In both cases, the tank must be closed-in-place or removed, unless the tank manufacturer can do repairs and recertify or re-warranty the tank. Once repaired, the tank must also pass a tightness test. The repairs must be conducted within 30 days of obtaining knowledge of the failure, or if the repairs cannot be conducted within 30 days, the tank must be taken temporarily out-of-service until the repairs can be made. The UST Owner or Operator may also inform MassDEP in writing within 30 days of the discovery of the need for repair or replacement that the repairs cannot be conducted within that timeframe and provide MassDEP with information as to the circumstances. Records are maintained in accordance with 310 CMR 80.36. **[310 CMR 80.19(3)(c)1., 310 CMR 80.33, 310 CMR 80.38, 310 CMR 80.39, 310 CMR 80.36(5)(a), and 310 CMR 80.36]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tank tightness test, and
- Records indicate the failed tank was emptied within 24 hours if there was a release to the environment or within 72 hours if there was leakage, and
- Records indicate one or more of the following steps were taken:
    - The tank was removed, or
    - The tank was permanently closed-in-place, or
    - Within 30 days of obtaining knowledge of the failed test, the tank was repaired and recertified or re-warrantied by the tank manufacturer or fabricator and the tank passed a tightness test, or
    - If the repairs could not be completed within 30 days, the tank was taken temporarily out-of-service, or MassDEP was notified in writing of the circumstances for the delay in repair or replacement.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- there are records of a failed tank tightness test, or
- The tank was not emptied within 24 or 72 hours, or
- The tank was not removed, closed-in-place, repaired and re-warrantied and tightness tested, or taken temporarily out-of-service

Answer N/A if:

- Since the last third-party inspection, all required tightness tests were passed.

Question G11C has been deleted.

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Field Constructed Tanks of 50,000 Gallon Capacity or Greater using the Triennial Bulk Tank Tightness Test and In-Tank Monitor

There are three questions to this section (12A through 12C)

Introduction

Field constructed tanks are those that are constructed on-site. These tanks can be constructed of any material that is approved per the regulations; however, there may be tanks constructed of concrete that were installed prior to 1989 found at facilities. Field-constructed tanks with a capacity greater than 50,000 gallons have three methods of leak detection available to them. The three options are summarized in the following Table.

Leak Detection Options for Field Constructed Tanks Over 50,000 Gallons

	In-Tank Monitor Test Frequency	In-Tank Monitor Test Accuracy	Bulk Tank Tightness Test Frequency	Bulk Tank Tightness Test Accuracy	Citation
Option 1			annually	0.5 gph	310 CMR 80.19(3)(c)1.
Option 2	Every 30 days	1 gph or less	triennially	0.2 gph	310 CMR 80.19(3)(c)2.
Option 3	Every 30 days	2 gph or less	biennially	0.2 gph	310 CMR 80.19(3)(c)3.

Bulk Tank Tightness Test

The accuracy of many methods of bulk tank tightness testing is a function of the surface area of the product at the time of the test. The accuracy of the bulk tank tightness method should be stated in the test results documenting the test. For additional information, consult the National Work Group on Leak Detection Evaluations web site: www.nwglde.org Click on the "Testing Methods" tab and then the listing for "Bulk Underground Storage Tank Leak Detection Method."

In-Tank Monitor for Bulk Tank Leak Detection

Most standard tank gauges utilized in typical underground storage systems are not suited for large bulk tanks over 50,000 gallons. To determine whether an in-tank monitor can be used for leak detection in a large bulk tank, consult the National Work Group on Leak Detection Evaluations web site at: www.nwglde.org Click on the "Testing Methods" tab and then the listing for "Bulk Underground Storage Tank Leak Detection Method."

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Please note:
The following three questions are for Option 2 in the above table

Field Constructed Tanks – Three Year Testing

G12A. Are there records of passing in-tank monitoring test results at least every thirty days?

For Option 2 above, the UST Owner or Operator of field-constructed tanks must conduct bulk tank tightness testing with a leak detection accuracy of 0.2 gph triennially, and use an in-tank monitor with a leak detection rate of 1.0 gph or less to conduct a leak detection test every 30 days. Releases and/or leakage should be handled pursuant to 310 CMR 80.38 and 39. **[310 CMR 80.19(3)(c)2.; 310 CMR 80.38 and 310 CMR 80.39]**

Answer YES if ALL of the following are TRUE:

Since the last third-party inspection,

- The tank was tested every 30 days using an in-tank monitor with a leak detection rate of 1.0 gph or less, and
- the field-constructed tanks passed all the monthly tests.

Answer NO if ANY of the following are TRUE:

Since the last third party inspection,

- The tank was tested using an in-tank monitor that did not have a leak detection rate of 1.0 gph or less, or
- The tank was not tested for leakage or release using the in-tank monitor every 30 days, or
- One or more of the tests was a failed test.

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Field Constructed Tanks – Three Year Testing

G12B. Are there records of passing bulk tank tightness test results at least every three years?

The UST Owner or Operator using Option 2 must conduct a bulk tank tightness testing triennially (every three years). The bulk tank tightness test must be able to detect leakage or a release at a rate of 0.2 gallons per hour (gph). **[310 CMR 80.19(3)(c)2.]**

Answer YES if BOTH of the following are TRUE:

Since the last third-party inspection,

- The UST Owner or Operator using Option 2 tested that tank(s) using a bulk tank tightness test that can detect leakage or releases of 0.2 gph or less, and
- The tank(s) were tested triennially.

Answer NO if EITHER of the following are TRUE:

Since the last third-party inspection,

- The UST Owners or Operators using Option 2 did not test the tank(s) using a bulk tank tightness test that can detect leakage or releases of 0.2 gph or less, or
- The tests were not conducted triennially

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Field Constructed Tanks – Three Year Testing

G12C: For UST systems that failed an in-tank monitoring test or "three year" bulk tightness test, are there records of UST system repair or replacement in accordance with 310 CMR 80.33?

A tank that has released a regulated substance must be emptied immediately (but in no event longer than 24 hours) after obtaining knowledge of the release. A tank that has had leakage of a regulated substance must be emptied immediately, but in no even longer than 72 hours, of obtaining knowledge of the leakage. In both cases, the tank must be closed-in-place or removed, unless the tank manufacturer can do repairs and recertify or re-warranty the tank. Once repaired, the tank must also pass a tightness test. The repairs must be conducted within 30 days of obtaining knowledge of the failure, or if the repairs cannot be conducted within 30 days, the tank must be taken temporarily out-of-service until the repairs can be made. The UST Owner or Operator may also inform MassDEP in writing within 30 days of the discovery of the need for repair or replacement that the repairs cannot be conducted within that timeframe and provide MassDEP with information as to the circumstances. Records are maintained in accordance with 310 CMR 80.36. **[310 CMR 80.19(3)(c)2., 310 CMR 80.33, 310 CMR 80.38, 310 CMR 80.39, 310 CMR 80.36(5)(a) and 310 CMR 80.36]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed in-tank monitor test and/or a bulk tank tightness test, and
- Records indicate the failed tank was emptied within 24 hours if there was a release to the environment or within 72 hours if there was leakage, and
- Records indicate one or more of the following steps were taken:
    - The tank was removed, or
    - The tank was permanently closed-in-place, or
    - Within 30 days of obtaining knowledge of the failed test, the tank was repaired and recertified or re-warrantied by the tank manufacturer and the tank passed a tightness test, or
    - If the repairs could not be completed within 30 days, the tank was taken temporarily out-of-service, or MassDEP was notified in writing of the circumstances for the delay in repair or replacement.

Answer NO if ANY of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed in-tank monitor test and/or there are records of a failed a bulk tank tightness test, or
- The tank was not emptied within 24 or 72 hours, or
- The tank was not removed, closed-in-place, repaired and recertified or re-warrantied, and tightness tested, or taken temporarily out-of-service

Answer N/A if:

Since the last third-party inspection:

- There are no records indicating a failed in-tank monitor test and/or a bulk tank tightness test.

Question G12D has been deleted.

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Field Constructed Tanks of 50,000 Gallon Capacity or Greater using the Biennial Bulk Tank Test and In-Tank Monitor

There are three questions to this section (13A through 13C)

Introduction

Field constructed tanks are those that are constructed on-site. These tanks can be constructed of any material that is approved per the regulations, however, there may be tanks constructed of concrete that were installed prior to 1989 found at facilities. Field-constructed tanks with a capacity greater than 50,000 gallons have three methods of leak detection available to them. The three options are summarized in the following Table.

Leak Detection Options for Field Constructed Tanks Over 50,000 Gallons

	In-Tank Monitor Test Frequency	In-Tank Monitor Test Accuracy	Bulk Tank Tightness Test Frequency	Bulk Tank Tightness Test Accuracy	Citation
Option 1			annually	0.5 gph	310 CMR 80.19(3)(c)1.
Option 2	Every 30 days	1 gph or less	triennially	0.2 gph	310 CMR 80.19(3)(c)2.
Option 3	Every 30 days	2 gph or less	biennially	0.2 gph	310 CMR 80.19(3)(c)3.

Bulk Tank Tightness Test

The accuracy of many methods of bulk tank tightness testing is a function of the surface area of the product at the time of the test. The accuracy of the bulk tank tightness method should be stated in the test results documenting the test. For additional information, consult the National Work Group on Leak Detection Evaluations web site: www.nwglde.org Click on the "Testing Methods" tab and then the listing for "Bulk Underground Storage Tank Leak Detection Method."

In-Tank Monitor for Bulk Tank Leak Detection

Most standard tank gauges utilized in typical underground storage systems are not suited for large bulk tanks over 50,000 gallons. To determine whether an in-tank monitor can be used for leak detection in a large bulk tank, consult the National Work Group on Leak Detection Evaluations web site at: www.nwglde.org Click on the "Testing Methods" tab and then the listing for "Bulk Underground Storage Tank Leak Detection Method."

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Please note:
The following three questions are for Option 3 in the above table

Field Constructed Tanks – Two Year Testing

G13A. Are there records of passing in-tank monitoring test results at least every thirty days?

For Option 3 above, the UST Owner or Operator of field-constructed tanks must conduct bulk tank tightness testing with a leak detection accuracy of 0.2 gph biennially, and use an in-tank monitor with a leak detection rate of 2.0 gph or less to conduct a leak detection test every 30 days. Releases and/or leakage should be handled pursuant to 310 CMR 80.38 and 80.39. **[310 CMR 80.19(3)(c)3.; 310 CMR 80.38 and 310 CMR 80.39]**

Answer YES if ALL of the following are TRUE:

Since the last third-party inspection:

- The tank was tested every 30 days using an in-tank monitor with a leak detection rate of 2.0 gph or less, and
- the field-constructed tanks passed all the monthly tests.

Answer NO if ANY of the following are TRUE:

Since the last third party inspection:

- The tank was tested using an in-tank monitor that did not have a leak detection rate of 2.0 gph or less, or
- The tank was not tested for leakage or release using the in-tank monitor every 30 days, or
- One or more of the tests was a failed test.

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Field Constructed Tanks – Two Year Testing

G13B. Are there records of passing bulk tank tightness test results at least every two years?

The UST Owner or Operator using Option 2 must conduct a bulk tank tightness testing triennially (every three years). The bulk tank tightness test must be able to detect leakage or a release at a rate of 0.2 gallons per hour (gph). **[310 CMR 80.19(3)(c)3.]**

Answer YES if BOTH of the following are TRUE:

Since the last third-party inspection:

- there are records that the UST Owner or Operator using Option 3 tested that tank(s) using a bulk tank tightness test that can detect leakage or releases of 0.2 gph or less, and
- the tank(s) were tested biennially.

Answer NO if EITHER of the following are TRUE:

Since the last third-party inspection:

- there are no records that the UST Owners or Operators using Option 3 tested the tank(s) using a bulk tank tightness test that can detect leakage or releases of 0.2 gph or less, or
- the tests were not conducted biennially

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Field Constructed Tanks – Two Year Testing

G13C. For UST systems that failed an in-tank monitoring test or "two year" bulk tightness test, are there records of UST system repair or replacement in accordance with 310 CMR 80.33?

A tank that has released a regulated substance must be emptied immediately (but in no event longer than 24 hours) after obtaining knowledge of the release. A tank that has had leakage of a regulated substance must be emptied immediately, but in no even longer than 72 hours, of obtaining knowledge of the leakage. In both cases, the tank must be closed-in-place or removed, unless the tank manufacturer can do repairs and recertify or re-warranty the tank. Once repaired, the tank must also pass a tightness test. The repairs must be conducted within 30 days of obtaining knowledge of the failure, or if the repairs cannot be conducted within 30 days, the tank must be taken temporarily out-of-service until the repairs can be made. The UST Owner or Operator may also inform MassDEP in writing within 30 days of the discovery of the need for repair or replacement that the repairs cannot be conducted within that timeframe and provide MassDEP with information as to the circumstances. Records are maintained in accordance with 310 CMR 80.36. **[310 CMR 80.19(3)(c)2., 310 CMR 80.33, 310 CMR 80.38, 310 CMR 80.39, 310 CMR 80.36(5)(a) and 310 CMR 80.36]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed in-tank monitor test and/or a bulk tank tightness test, and
- Records indicate the failed tank was emptied within 24 hours if there was a release to the environment or within 72 hours if there was leakage, and
- Records indicate one or more of the following steps were taken:
    - The tank was removed, or
    - The tank was permanently closed-in-place, or
    - Within 30 days of obtaining knowledge of the failed test, the tank was repaired and recertified or re-warrantied by the tank manufacturer and the tank passed a tightness test, or
    - If the repairs could not be completed within 30 days, the tank was taken temporarily out-of-service, or MassDEP was notified in writing of the circumstances for the delay in repair or replacement.

Answer NO if ANY of the following statements are TRUE:

Since the last third-party inspection:

- there are records of a failed in-tank monitor test and/or there are records of a failed a bulk tank tightness test, or
- the tank was not emptied within 24 or 72 hours, or
- the tank was not removed, closed-in-place, repaired and recertified or re-warrantied, and tightness tested, or taken temporarily out-of-service

Answer N/A if:

Since the last third-party inspection:

- There are no records indicating a failed in-tank monitor test and/or a bulk tank tightness test.

Question G13D has been deleted.

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Overview of Daily Inventory Monitoring

Single-Walled UST over 1000 gallon capacity without Continuous Monitoring

The 13 questions in this section apply to daily inventory monitoring. Questions 14A, 14B, 14F and 14 M are general questions on inventory monitoring. Questions 14C through 14E pertain to abnormal product loss. Questions 14G through 14L pertain to abnormal water gain.

Daily inventory monitoring must be used on single-walled tanks that do not have a continuous in-tank monitor for leak detection. If this facility does not use this method of leak detection, answer N/A for Question 14.

Introduction

Daily measuring and reconciling of fuel inventory are required for single-walled tanks that do not have a continuous in-tank monitor. The elements of daily monitoring are as follows:

- Inventory measurements (volume dispensed, volume delivered and volume in the tank) must be taken daily. Measurements of water in the tank must also be taken daily.
- Measurements can be taken using a gauge stick or tape with water sensitive paste. An automatic tank gauge can also be used to obtain these measurements.
- Measurements of liquid depth must be made to an accuracy of 1/8 inch or better.
- Inventory measurements must be reconciled at the end of each month.
- Variance at the end of the month must not exceed 1% plus 130 gallons of the regulated substance dispensed over the calendar month, not explainable by spillage, temperature variations or other causes. Exceeding this value is considered to be an “abnormal regulated substance loss”, and an investigation must be conducted.
- An increase of more than one inch of water in the tank in a 24-hour period is considered an “abnormal water gain” and an investigation must be conducted.

Response to Abnormal Regulated Substance Loss

If the monthly inventory shows an “abnormal regulated substance loss” a release is suspected, and the UST Owner or Operator must take the following steps within 72 hours of the discovery of the loss:

- Check the inventory input and output records for math errors, and
- Check the inventory for errors in measurements.

If the loss cannot be reconciled, the tank must be tightness tested in accordance with 310 CMR 80.32. If the tank passes the tightness test, it is considered to be tight. If the tank fails the tightness test, the UST Owner or Operator shall comply with 310 CMR 80.32(3), and the notification requirements found at **310 CMR 40.0300**, as applicable

Response to Abnormal Increase in Water Level

If the water level in the tank increases more than one inch in 24 hours, it is considered to be an “abnormal water gain”. If there is an abnormal water gain, the UST Owner or Operator must:

- have the water removed and managed in accordance with applicable regulations, and
- check the tank for water within 24 hours of the water removal, during which time no regulated substance should be added to the tank.
- Within 72 hours of the discovery of the “abnormal water gain”, the cause of the gain must be investigated and repairs or replacements made as necessary.
- If the cause cannot be determined, the UST must be tightness tested in accordance with 310 CMR 80.32.
    - If the UST fails the tightness test, UST Owner or Operator shall comply with 310 CMR 80.32(3), and the notification requirements found at **310 CMR 40.0300**, as applicable.
    - If the UST passes the tightness test, the system is considered to be tight.

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Daily Inventory Monitoring

G14. Daily Inventory Monitoring System for Single-Walled Tanks Without Continuous Monitoring

If the facility does not use this type of leak detection system, answer N/A to Question G14. No other questions in this section need to be answered.

Daily Inventory Monitoring

G14A. Is the equipment used for the daily inventory monitoring correctly calibrated to the nearest 1/8th of an inch?

The individual conducting the daily inventory must be able to obtain data to 1/8 inch or less. The equipment used to conduct the tank gauging must be calibrated to read in 1/8 inch increments or less. **[310 CMR 80.31(1)(c)2.a.]**

Answer YES if the following is TRUE:

- The equipment used for daily inventory monitoring contains markings of 1/8 inch or less.

Answer NO if the following is TRUE:

- The equipment used to conduct tank gauging for daily inventory has markings that are greater than 1/8 inch.

Answer N/A if:

- An in-tank monitor is used to measure the liquid level

Former Question G14B: Are all inventory monitoring records maintained? has been deleted, and the letters associated with the following questions have been adjusted accordingly.

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Daily Inventory Monitoring

G14B. Are there records of measurements taken daily and reconciliation with inventory daily and monthly in accordance with 310 CMR 80.31(4)?

The UST Owner or Operator must maintain all records of the inventory monitoring, including sales receipts, weekly and monthly measurements, and records of abnormal water gain in accordance with 310 CMR 80.36(1). **[310 CMR 80.31(4) and 310 CMR 80.36(1)(i)]**

Answer YES if:

Since the last third-party inspection:

- All records documenting both daily and monthly inventory measurements, calculations and reconciliations are present.

Answer NO if:

Since the last third-party inspection:

- Records for any of the following are missing:
    - Daily inventory measurements or,
    - Monthly inventory measurements or,
    - Calculations for reconciliation

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Daily Inventory Monitoring

G14C. Since the last third-party inspection, or the four year period prior to the date of the inspection, whichever is less, are there daily inventory records documenting no abnormal regulated substance loss?

An abnormal regulated substance loss is a loss of regulated substance from any tank not explainable by spillage, temperature variations or other causes that is in excess of 1% of the volume plus 130 gallons of regulated substance dispensed over a period of a calendar month. **[310 CMR 80.31(1)(d). and 310 CMR 80.36]**

Answer YES if ALL of the following statements are TRUE:

Since the last third party inspection:

- Records show NO occurrences of an abnormal regulated substance loss

Answer NO if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show one or more occurrences of a regulated substance loss

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Daily Inventory Monitoring

G14D. For each abnormal regulated substance loss event, are there records an investigation was concluded within 72 hours of discovery of the abnormal regulated substance loss in accordance with 310 CMR 80.31(1)(e)?

An "abnormal substance loss" is a loss in excess of 1% plus 130 gallons of the regulated substance dispensed over a period of a calendar month. If the monthly inventory shows an "abnormal regulated substance loss" a release is suspected, and the UST Owner or Operator must take the following steps within 72 hours of the discovery of the loss:

- Check the inventory input and output records for math errors, and
- Check the inventory for errors in measurements.

[310 CMR 80.31(1)(d); 310 CMR 80.31(1)(e)]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are one or more records showing a monthly inventory reconciliation with an "abnormal regulated substance loss" and,
- Records show that an investigation of the inventory measurements, calculations and reconciliations associated with each "abnormal regulated substance loss" was commenced within 72 hours of the discovery of the abnormal loss.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are one or more records showing a monthly inventory reconciliation with an "abnormal regulated substance loss", or
- There are no records or missing records for the investigation of the inventory measurements, calculations and reconciliations associated with each "abnormal substance loss", or
- Records show that the investigations were not concluded within 72 hours of discovery of the "abnormal regulated substance loss".

Answer N/A if:

Since the last third-party inspection:

- There are NO monthly inventory reconciliation records indicating that an "abnormal regulated substance loss" occurred.

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Daily Inventory Monitoring

G14E. For each investigation that is unable to reconcile an abnormal regulated substance loss event, are there records a tightness test was conducted?

An "abnormal substance loss" is a loss in excess of 1% plus 130 gallons of the regulated substance dispensed over a period of a calendar month. If the abnormal regulated substance loss was not reconciled by checking the inventory input and output for math errors, and checking the inventory for measurement errors, the UST system must be tightness tested in accordance with 310 CMR 80.32. **[310 CMR 80.31(1)(f)]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are one or more records showing an "abnormal regulated substance loss" occurred, and
- An investigation of the inventory measurements and calculations did not reconcile the "abnormal substance loss", and
- There are records showing that tightness tests of the UST system were conducted to investigate the cause of the "abnormal regulated substance loss."

Answer NO if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are one or more records showing an "abnormal regulated substance loss" occurred, and
- An investigation of the inventory measurements and calculations did not reconcile the cause of the "abnormal regulated substance loss", and
- There are no records showing that a tightness test of the UST system was conducted for each unreconciled "abnormal regulated substance loss".

Answer N/A if EITHER of the following statements is TRUE:

Since the last third-party inspection:

- There are NO records showing that an "abnormal regulated substance loss" occurred, or
- There are records indicating that that an "abnormal regulated substance loss" occurred, but an investigation of the inventory measurements and calculations reconciled the loss.

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Daily Inventory Monitoring

G14F. As a result of failed tightness tests, are there records of compliance with 310 CMR 80.32(3)?

310 CMR 80.32(3) are the regulations that apply to facilities that have had tightness testing failures. A tank or pipe fails a tightness test if the test indicates that the system is not tight and that there has been a release or leakage. The tightness test must be conducted by a certified UST system tightness tester. If an UST system fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure. The UST Owner or Operator must also comply with release notification procedures, as follows:

If a tank has had a release of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 24 hours after obtaining knowledge of the release
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If piping is the source of a release, the Owner or Operator must:

- Immediately isolate and empty the source of the leakage or release
- Have the piping replaced or repaired, or permanently close-in-place or remove the UST system
- Comply with MassDEP notification procedures, as applicable

All repairs or replacements must be completed within 30 days, unless the UST Owner or Operator notifies the MassDEP in writing of the need for an extended timeline, or if the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service.
[310 CMR 80.32(3); 210 CMR 80.33, 310 CMR 80.38; 310 CMR 80.39; 310 CMR 80.36 and 310 CMR 40.0300]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show a failed tank or piping tightness test, and
- Records show the failed tank was emptied within 24 hours if there was a release to the environment, or failed piping was isolated and immediately emptied of regulated substance, and
- Records show one or more of the following steps were taken:
    - The tank or piping was removed
    - The tank or piping was permanently closed-in-place
    - The tank or piping was repaired or replaced and re-certified or re-warranted by the manufacturer within 30 days of the failed test, or if the repair or replacement could not be completed within 30 days (unless the MassDEP was notified that the repair could not be completed in 30 days) , placed temporarily out-of-service.

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Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tank or piping tightness test, and
- The criteria above were not met.

Answer N/A if:

Since the last third-party inspection:

- There are no records of failed tank or piping tightness tests

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Daily Inventory Monitoring

G14G. Are there records of abnormal water gain measurements being taken once every 24 hours (daily)?

UST Owners and Operators who must conduct daily inventory monitoring must also conduct monitoring for abnormal water gain. The measurements must be taken daily and recorded. The records must be maintained in accordance with 310 CMR 80.36. An "abnormal water gain" is a gain in the water level of the tank of more than one-inch in a 24-hour period. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.31(3)(a), (b), (c), and (d) and 310 CMR 80.36]**

Answer YES if BOTH of the following are TRUE:

Since the last third-party inspection:

- The facility conducts daily inventory monitoring as a method of leak detection, and
- There are records showing that daily measurements of the water level in each tank have been taken

Answer NO if BOTH of the following are TRUE:

Since the last third-party inspection:

- The facility conducts daily inventory monitoring as a method of leak detection, and
- There are no records for daily water level measurements of each tank, or there are missing records of the daily water level measurements for any of the tanks.

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Daily Inventory Monitoring

G14H. Since the last third-party inspection, or the four year period prior to the date of the inspection, whichever is less, are there daily inventory records documenting no abnormal water gains?

Records of measurements for "abnormal water gain" must be taken and recorded daily. These records must be maintained along with inventory monitoring records for leak detection. **[310 CMR 80.31(3) and (4)]**

Answer YES if BOTH of the following are TRUE:

Since the last third-party inspection:

- There are records for daily "abnormal water gain" measurements, and
- None of the daily records show that there has been an "abnormal water gain" observed.

Answer NO if:

Since the last third-party inspection:

- There are missing records, or no records, for daily "abnormal water gain" measurements, and/or
- One or more of the daily records show that there was an "abnormal water gain" observed.

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Daily Inventory Monitoring

G14I. Upon determination of abnormal water gain, are there records of water being removed in accordance with applicable local, state and federal laws and regulations?

An "abnormal water gain" is a gain in the water level of the tank of more than one-inch in a 24-hour period. If an abnormal water gain is found while conducted daily water measurements, the water must be removed from the tank and managed in accordance with applicable local, state and federal laws and regulations. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.31(3)(d) and (e), and 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show at least one occurrence of abnormal water gain, and
- Records show that each time an abnormal water gain occurred the water was removed from the tank and disposed of according to local, state and federal laws and regulations.

Answer NO if:

Since the last third-party inspection:

- Records show at least one occurrence of an abnormal water gain, and
- There are NO records (or missing records) to show that each time an abnormal water gain was observed the water was removed from the tank and disposed of according to local, state and federal laws and regulations.

Answer N/A if:

Since the last third-party inspection:

- There records show that there were no instances of any abnormal water gains.

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Daily Inventory Monitoring

G14J. Are there records of the tank being re-measured for abnormal water gain within 24 hours of removal of water, during which no regulated substance was added to the tank?

An "abnormal water gain" is a gain in the water level of the tank of more than one-inch in a 24-hour period. If there is an abnormal water gain discovered, the water must be removed and disposed of in accordance with applicable local, state and federal law and regulations. The tank must be checked within 24-hours of the water removal during which time no regulated substance is added to the tank. Records must be maintained in accordance with 310 CMR 80.36.
[310 CMR 80.31(3)(f) and 310 CMR 80.36]

Answer YES if ALL of the following statements are TRUE:

Since the last third-part inspection:

- Records show at least one occurrence of an "abnormal water gain", and
- Records show that each time an abnormal water gain occurred, the water was removed from the tank and disposed of according to local, state and federal laws and regulations, and
- Records show that within 24-hours, during which time no regulated substance was added to the tank, the tank was measured again for the presence of "abnormal water" in the tank.

Answer NO if ANY combination of the following statements is TRUE:

Since the last third-party inspection:

- Records show at least one occurrence of an "abnormal water gain", and
- Records show that the "abnormal water" was not removed, or
- Records show that the "abnormal water" was not disposed of according to local, state and federal laws and regulations, or
- Records show that within 24-hours the tank was measured again for the presence of "abnormal water" in the tank, but regulated substance was added to the tank during this time, or
- Records show that the tank was measured again for the presence of "abnormal water", but the measurement was not conducted within 24-hours of the "abnormal water" removal.

Answer N/A if:

Since the last third-party inspection:

- Records show there were no occurrences of an "abnormal water gain "

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Daily Inventory Monitoring

G14K. If upon re-measuring, there was abnormal water gain, are there records of an investigation within 72 hours to determine the cause of the abnormal water gain and make repairs or replacements as necessary?

An "abnormal water gain" is a gain in the water level of the tank of more than one-inch in a 24-hour period. If an "abnormal water gain' is discovered, the water must be removed and managed in accordance with all federal, state and local requirements. The tank must be rechecked again for 'abnormal water gain' within 24 hours of removal of the water, during which time no regulated substance is dispensed or added. In the event of any abnormal water gain, the UST Owner or Operator must conduct an investigation to determine the cause of the abnormal water gain within 72 hours of the discovery of the gain. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.31(3)(g)1. And 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third party inspection:

- Records show one or more occurrences of an "abnormal water gain", and
- Records show that an investigation to determine the cause of the "abnormal water gain" was conducted within 72 hours of the discovery of the water gain.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show one or more occurrences of an "abnormal water gain", and
- Records show that NO investigation to determine the cause of the "abnormal water gain" was conducted within 72 hours of the discovery of the water gain.

Answer N/A if:

Since the last third-party inspection:

- Records show that there have been no "abnormal water gain" occurrences.

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Daily Inventory Monitoring

G14L. If an investigation cannot determine the cause of abnormal water gain, are there records a tightness test of the UST system was conducted?

An "abnormal water gain" is a gain in the water level of the tank of more than one-inch in a 24-hour period. If an investigation into the cause of the "abnormal water gain" cannot determine the reason for the gain, the UST Owner or Operator must conduct a tightness test of the tank in accordance with 310 CMR 80.32. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.31(3)(f). And 310 CMR 80.36]**

Answer YES if ALL of the following statements are TRUE:

Since the last third party inspection:

- Records show one or more occurrences of an "abnormal water gain", and
- An investigation of the "abnormal water gain" did not discover the cause of the water gain, and
- Records show that a tightness test of the tank was conducted in accordance with 310 CMR 80.32.

Answer NO if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show one or more occurrences of an "abnormal water gain", and
- An investigation of the "abnormal water gain" did not discover the cause of the water gain, and
- Records show that a tightness test of the tank was NOT conducted in accordance with 310 CMR 80.32.

Answer N/A if:

Since the last third-party inspection:

- Records indicating no occurrences of "abnormal water gain".

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Daily Inventory Monitoring

G14M. For UST systems that failed a tightness test, are there records of compliance with the requirements of 310 CMR 80.32(3)?

310 CMR 80.32(3) are the regulations that apply to facilities that have had tightness testing failures. A tank or pipe fails a tightness test if the test indicates that the system is not tight and that there has been a release. The tightness test must be conducted by a certified UST system tightness tester. If an UST system fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure. The UST Owner or Operator must also comply with release notification procedures, as follows:

If a tank has had a release of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 24 hours after obtaining knowledge of the release
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If piping is the source of a release, the Owner or Operator must:

- Immediately isolate and empty the source of the leakage or release
- Have the piping replaced or repaired, or permanently close-in-place or remove the UST system
- Comply with MassDEP notification procedures, as applicable

All repairs or replacements must be completed within 30 days, unless the UST Owner or Operator notifies the MassDEP in writing of the need for an extended timeline, or if the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service.
[310 CMR 80.32(3); 210 CMR 80.33, 310 CMR 80.38; 310 CMR 80.39; 310 CMR 80.36 and 310 CMR 40.0300]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show a failed tank or piping tightness test, and
- Records show the failed tank was emptied within 24 hours if there was a release, or failed piping was isolated and immediately emptied of regulated substance, and
- Records show one or more of the following steps were taken:
    - The tank or piping was removed
    - The tank or piping was permanently closed-in-place
    - The tank or piping was repaired or replaced and re-certified or re-warranted by the manufacturer within 30 days of the failed test, or if the repair or replacement could not be completed within 30 days (unless the MassDEP was notified that the repair could not be completed in 30 days) , placed temporarily out-of-service.

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Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tank or piping tightness test, and
- The criteria above were not met.

Answer N/A if:

Since the last third-party inspection:

- There are no records of failed tank or piping tightness tests

Question G14O has been deleted.

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Overview of Manual Tank Gauging

Single-walled tanks with a capacity of 111 to 1,000 Gallons

The 14 questions in this section apply to daily inventory monitoring for tanks with a capacity between 111 and 1000 gallons that do not have a continuous in-tank monitor. Questions 15B through 15F refer to manual tank gauging, and questions 15G through 15N refer to abnormal water gain.

Daily inventory monitoring must be used on single-walled tanks that do not have a continuous in-tank monitor for leak detection. If the facility does not use this type of leak detection system, answer N/A to Question G15. No other questions in this section need to be answered.

Introduction

Manual tank gauging is a form of leak detection that relies on weekly monitoring periods (every seven days) when the tank has no regulated substance added or removed from the tank for a minimum of 36 hours. Two consecutive measurements are taken at the beginning and ending of the 36-hour period, averaged, and compared to a table found at 310 CMR 80.31(2). If the variation between the beginning and ending average measurement exceeds the weekly or monthly standard found on the table, it is considered to be a release or leakage. The tank must also be monitored on a DAILY basis for increases in water level.

The daily inventory monitoring for small tanks is conducted as follows:

- Measurements are taken every 7 days
- Two consecutive tank liquid level measurements must be taken and recorded, including the date and time of the measurement, at the beginning and end of a 36-hour period during which no regulated substance is added or removed
- These measurements must be taken with equipment that can measure the liquid level over the full range of the tank's height to the nearest 1/8th of an inch
- The two consecutive measurements are averaged and the average is compared to the following table. If the variation between the beginning and ending measurements exceeds the weekly or monthly standard, a release or leakage is suspected.

Table F

Nominal Tank Capacity	Weekly Standard (One Test)	Monthly Standard (Average of Four Tests)
500 gallons or less	10 gallons	5 gallons
501 through 1,000 gallons	13 gallons	7 gallons

The Massachusetts regulations found at 310 CMR 80.00 also describe different versions of manual tank gauging for tanks supplying fuel to emergency generators and emergency engine driven pumps. **[310 CMR 80.26(7) and (8)]**

Response to Abnormal Regulated Substance Loss

If the monthly inventory shows an "abnormal regulated substance loss" a release is suspected, and the UST Owner or Operator must take the following steps within 72 hours of the discovery of the loss:

- Check the inventory input and output records for math errors, and
- Check the inventory for errors in measurements.

If the loss cannot be reconciled, the tank must be tightness tested in accordance with 310 CMR 80.32. If the tank passes the tightness test, it is considered to be tight. If the tank fails the tightness test, the UST Owner or Operator shall comply with 310 CMR 80.32(3), and the notification requirements found at **310 CMR 40.0300**, as applicable.

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G15. Manual Tank Gauging for Small Tanks 111 Gallons to 1000 Gallons

Manual Tank Gauging

G15A. Is the equipment used for inventory monitoring correctly calibrated to the nearest 1/8th of an inch?

The individual conducting the daily inventory must be able to obtain data to 1/8 of an inch. The equipment used to conduct the tank gauging must be calibrated in increments that are 1/8 inch or less. **[310 CMR 80.31(2)(b)3.]**

Answer YES if the following is TRUE:

- The equipment used for daily inventory monitoring contains 1/8-inch or less

Answer NO if the following is TRUE:

- The equipment used to conduct the tank gauging used to measure liquid levels when daily inventory is conducted has markings that are greater than 1/8 of an inch

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Manual Tank Gauging

G15B. Are there records of manual tank gauging being correctly taken and recorded every 7 days?

The UST Owner or Operator must maintain all records of the inventory monitoring to show that it was conducted every seven days. Records must also include sales receipts, weekly and monthly measurements, and records of abnormal water gain in accordance with 310 CMR 80.36(1). **[310 CMR 80.31(4) and 310 CMR 80.36(1)(i)]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection, records show that:

- Manual tank gauging was conducted every seven days, and
- The time between the beginning and ending manual tank gauging measurements was at least 36 hours, and
- No product was removed or added during this time, and
- The beginning and ending manual tank gauging measurements consisted of the average of two consecutive measurements.

Answer NO if ONE or MORE of the following is TRUE:

Since the last third party inspection, records show that:

- Manual tank gauging was not conducted every seven days;
- The time between the beginning and ending manual tank gauging measurements was less than 36 hours;
- Product was removed or added during this time;
- The beginning and ending manual tank gauging measurements were not an average of two consecutive measurements.

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Manual Tank Gauging

G15C. Since the last third-party inspection or the four year period prior to the date of the inspection, whichever is less, are there records documenting any weekly tank gauging variation exceeding the weekly or monthly standard?

Records must be reviewed to see if there were any variances from the weekly and monthly standards found in Table F above. If there have been no variations from the table there are no suspected releases or leakage. Any variations from Table F above indicate a release or leakage. **[310 CMR 80.31(2)(b).]**

Answer YES if:

Since the last third-party inspection:

- Records show that there have been no variations from the weekly and monthly standards found in Table F above, and therefore there are no suspected releases or leakage.

Answer NO if:

Since the last third-party inspection:

- Records show that there have been variations from the weekly and monthly standards found in Table F above, and there is a suspected release or leakage.

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Manual Tank Gauging

G15D. As a result of suspected release or leakage, are there records of inventory reconciliation in accordance with 310 CMR 80.31(1)(e)?

If any inventory monitoring records show a suspected release or leakage, the UST Owner or Operator must check the inventory input and output records for any math errors, and check the inventory for any errors in measurements within 72 hours of obtaining knowledge of the suspected release or leakage. **[310 CMR 80.31(2)(c); 310 CMR 80.31(1)(e)]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are one or more records showing that the inventory monitoring exceeded the applicable weekly or monthly standard (see Table F below).
- Records show that an investigation of the measurements and calculations associated with the manual tank gauging exceedances was completed within 72 hours of obtaining knowledge of the exceedances.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are one or more records showing that the inventory monitoring exceeded the applicable weekly or monthly standard (see Table F below), and
- Records show that no investigation of the measurements and calculations associated with the manual tank gauging exceedances was completed within 72 hours of obtaining knowledge of the exceedances.

Answer N/A if:

- There are no records showing that there were exceedances of the weekly or monthly standard found in Table F below

Table F

Nominal Tank Capacity	Weekly Standard (One Test)	Monthly Standard (Average of Four Tests)
500 gallons or less	10 gallons	5 gallons
501 through 1,000 gallons	13 gallons	7 gallons

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Manual Tank Gauging

G15E. For each suspected release or leakage that cannot be reconciled are there records of a tightness test being conducted?

If the inventory reconciliation shows a suspected release or leakage of the tank that cannot be reconciled by checking the inventory input and output for math errors or by checking the inventory for errors in measurements, the UST Owner or Operator must conduct a tightness test of the tank in accordance with 310 CMR 80.32. **[310 CMR 80.31(2)(c); 80.31(1)(f)]**

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- There are one or more records showing that the inventory reconciliation exceeded the applicable weekly or monthly standard, and
- The investigation(s) following the inventory reconciliation concluded that the weekly or monthly standard was exceeded, and
- Records show that a tightness test of the tank was conducted in accordance with 310 CMR 80.32

Answer NO if ALL of the following statements are TRUE:

Since the last third party inspection:

- There are one or more records indicating that the inventory reconciliation exceeded the applicable weekly or monthly standard, and
- The investigation(s) following the inventory reconciliation concluded that the weekly or monthly standard was exceeded, and
- There are no records showing that a tightness test of the tank was conducted in accordance with 310 CMR 80.32

Answer N/A if:

Since the last third-party inspection:

- there are NO records indicating that any inventory reconciliation exceeded the applicable weekly or monthly standard.

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Manual Tank Gauging

G15F. For UST systems that failed a tightness test, are there records of compliance with 310 CMR 80.32(3)?

310 CMR 80.32(3) are the regulations that apply to facilities that have had tightness testing failures. A tank or pipe fails a tightness test if the test indicates that the system is not tight and that there has been a release. The tightness test must be conducted by a certified UST system tightness tester. If an UST system fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure. The UST Owner or Operator must also comply with release notification procedures, as follows:

If a tank has had a release of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 24 hours after obtaining knowledge of the release
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If piping is the source of leakage or a release, the Owner or Operator must:

- Immediately isolate and empty the source of the leakage or release
- Have the piping replaced or repaired, or permanently close-in-place or remove the UST system
- Comply with MassDEP notification procedures, as applicable

All repairs or replacements must be completed within 30 days, unless the UST Owner or Operator notifies the MassDEP in writing of the need for an extended timeline, or if the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service.
[310 CMR 80.32(3); 210 CMR 80.33, 310 CMR 80.38; 310 CMR 80.39; 310 CMR 80.36 and 310 CMR 40.0300]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show a failed tank or piping tightness test, and
- Records show the failed tank was emptied within 24 hours if there was a release to the environment, or failed piping was isolated and immediately emptied of regulated substance, and
- Records show one or more of the following steps were taken:
    - The tank or piping was removed
    - The tank or piping was permanently closed-in-place
    - The tank or piping was repaired or replaced and re-certified or re-warranted by the manufacturer within 30 days of the failed test, or if the repair or replacement could not be completed within 30 days (unless the MassDEP was notified that the repair could not be completed in 30 days) , placed temporarily out-of-service.

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Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tank or piping tightness test, and
- The criteria above were not met.

Answer N/A if:

Since the last third-party inspection:

- There are no records of failed tank or piping tightness tests

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Manual Tank Gauging

G15G. Are there records of abnormal water gain measurements being taken once every 24 hours (daily)?

UST Owners and Operators who must conduct daily inventory monitoring must also conduct monitoring for abnormal water gain. The measurements must be taken daily and recorded. The records must be maintained in accordance with 310 CMR 80.36. An "abnormal water gain" is a gain in the water level of the tank of more than one-inch in a 24-hour period. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.31(3)(a), (b), (c), and (d) and 310 CMR 80.36]**

Answer YES if BOTH of the following are TRUE:

Since the last third-party inspection:

- The facility conducts daily inventory monitoring as a method of leak detection, and
- There are records showing that daily measurements of the water level in each tank have been taken

Answer NO if BOTH of the following are TRUE:

Since the last third-party inspection:

- The facility conducts daily inventory monitoring as a method of leak detection, and
- There are no records for daily water level measurements of each tank, or there are missing records of the daily water level measurements for any of the tanks.

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Manual Tank Gauging

G15H. Are there records documenting there have been no "abnormal water gains" observed since the last third-party inspection of the four year period prior to the date of the third-party inspection, whichever is less?

Records of measurements for "abnormal water gain" must be taken and recorded daily. These records must be maintained along with inventory monitoring records for leak detection. **[310 CMR 80.31(3) and (4)]**

Answer YES if BOTH of the following are TRUE:

Since the last third-party inspection:

- There are records for daily 'abnormal water gain' measurements, and
- Daily records show that there have been no "abnormal water gain" observed.

Answer NO if:

Since the last third-party inspection:

- There are missing records, or no records, for daily "abnormal water gain" measurements, and/or
- One or more of the daily records show that there was an "abnormal water gain" observed.

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Manual Tank Gauging

G15I. Upon determination of abnormal water gain, are there records of water being removed in accordance with applicable local, state and federal laws and regulations?

An "abnormal water gain" is a gain in the water level of the tank of more than one-inch in a 24-hour period. If an abnormal water gain is found while conducted daily water measurements, the water must be removed from the tank and managed in accordance with applicable local, state and federal laws and regulations. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.31(3)(d) and (e), and 310 CMR 80.36]**

Answer YES if BOTH of the following are TRUE:

Since the last third-party inspection:

- Records show at least one occurrence of abnormal water gain, and
- Records show that each time an abnormal water gain occurred the water was removed from the tank and disposed of according to local, state and federal laws and regulations.

Answer NO if BOTH of the following are TRUE:

Since the last third-party inspection:

- Records show at least one occurrence of an abnormal water gain, and
- There are NO records (or missing records) to show that each time an abnormal water gain was observed the water was removed from the tank and disposed of according to local, state and federal laws and regulations.

Answer N/A if:

Since the last third-party inspection:

- There records show that there were no instances of any abnormal water gains.

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Manual Tank Gauging

G15J. Are there records of the tank being re-measured for abnormal water gain within 24 hours of removal of water, during which no regulated substance was added to the tank?

An "abnormal water gain" is a gain in the water level of the tank of more than one-inch in a 24-hour period. If there is an abnormal water gain discovered, the water must be removed and disposed of in accordance with applicable local, state and federal law and regulations. The tank must be checked within 24-hours of the water removal during which time no regulated substance is added to the tank. Records must be maintained in accordance with 310 CMR 80.36.
[310 CMR 80.31(3)(f) and 310 CMR 80.36]

Answer YES if ALL of the following statements are TRUE:

Since the last third-part inspection:

- Records show at least one occurrence of an "abnormal water gain", and
- Records show that each time an abnormal water gain occurred, the water was removed from the tank and disposed of according to local, state and federal laws and regulations, and
- Records show that within 24-hours, during which time no regulated substance was added to the tank, the tank was measured again for the presence of "abnormal water" in the tank.

Answer NO if ANY combination of the following statements is TRUE:

Since the last third-party inspection:

- Records show at least one occurrence of an "abnormal water gain", and
- Records show that the "abnormal water" was not removed, or
- Records show that the "abnormal water" was not disposed of according to local, state and federal laws and regulations, or
- Records show that within 24-hours the tank was measured again for the presence of "abnormal water" in the tank, but regulated substance was added to the tank during this time, or
- Records show that the tank was measured again for the presence of "abnormal water", but the measurement was not conducted within 24-hours of the "abnormal water" removal.

Answer N/A if:

Since the last third-party inspection:

- Records show there were no occurrences of an "abnormal water gain "

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Manual Tank Gauging

G15K. If upon re-measuring, there was abnormal water gain, are there records of an investigation within 72 hours to determine the cause of the abnormal water gain and make repairs or replacements as necessary?

An "abnormal water gain" is a gain in the water level of the tank of more than one-inch in a 24-hour period. If an "abnormal water gain' is discovered, the water must be removed and managed in accordance with all federal, state and local requirements. The tank must be rechecked again for 'abnormal water gain' within 24 hours of removal of the water, during which time no regulated substance is dispensed or added. In the event of any abnormal water gain, the UST Owner or Operator must conduct an investigation to determine the cause of the abnormal water gain within 72 hours of the discovery of the gain. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.31(3)(g)1. And 310 CMR 80.36]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third party inspection:

- Records show one or more occurrences of an "abnormal water gain", and
- Records show that an investigation to determine the cause of the "abnormal water gain" was conducted within 72 hours of the discovery of the water gain.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show one or more occurrences of an "abnormal water gain", and
- Records show that NO investigation to determine the cause of the "abnormal water gain" was conducted within 72 hours of the discovery of the water gain.

Answer N/A if:

Since the last third-party inspection:

- Records show that there have been no "abnormal water gain" occurrences.

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Manual Tank Gauging

G15L. If an investigation cannot determine the cause of abnormal water gain, are there records a tightness test of the UST system was conducted?

An "abnormal water gain" is a gain in the water level of the tank of more than one-inch in a 24-hour period. If an investigation into the cause of the "abnormal water gain" cannot determine the reason for the gain, the UST Owner or Operator must conduct a tightness test of the tank in accordance with 310 CMR 80.32. Records must be maintained in accordance with 310 CMR 80.36. **[310 CMR 80.31(3)(g)2. And 310 CMR 80.36]**

Answer YES if ALL of the following statements are TRUE:

Since the last third party inspection:

- Records show one or more occurrences of an "abnormal water gain", and
- An investigation of the "abnormal water gain" did not discover the cause of the water gain, and
- Records show that a tightness test of the tank was conducted in accordance with 310 CMR 80.32.

Answer NO if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show one or more occurrences of an "abnormal water gain", and
- An investigation of the "abnormal water gain" did not discover the cause of the water gain, and
- Records show that a tightness test of the tank was NOT conducted in accordance with 310 CMR 80.32.

Answer N/A if:

Since the last third-party inspection:

- Records indicating no occurrences of "abnormal water gain".

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Manual Tank Gauging

G15M. For UST systems that failed a tightness test, are there records of compliance with the requirements of 310 CMR 80.32(3)?

310 CMR 80.32(3) are the regulations that apply to facilities that have had tightness testing failures. A tank or pipe fails a tightness test if the test indicates that the system is not tight and that there has been a release. The tightness test must be conducted by a certified UST system tightness tester. If an UST system fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure. The UST Owner or Operator must also comply with release notification procedures, as follows:

If a tank has had a release of regulated substance, the UST Owner or Operator must:

- Empty the tank immediately, but in no event longer than 24 hours after obtaining knowledge of the release
- Permanently close-in-place or remove the tank unless the tank can be repaired and re-certified or re-warranted by the manufacturer
- Have the repaired tank tightness tested, and the tank must pass the test
- Comply with MassDEP notification procedures, as applicable

If piping is the source of leakage or a release, the Owner or Operator must:

- Immediately isolate and empty the source of the leakage or release
- Have the piping replaced or repaired, or permanently close-in-place or remove the UST system
- Comply with MassDEP notification procedures, as applicable

All repairs or replacements must be completed within 30 days, unless the UST Owner or Operator notifies the MassDEP in writing of the need for an extended timeline, or if the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service.
[310 CMR 80.32(3); 210 CMR 80.33, 310 CMR 80.38; 310 CMR 80.39; 310 CMR 80.36 and 310 CMR 40.0300]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show a failed tank or piping tightness test, and
- Records show the failed tank was emptied within 24 hours if there was a release to the environment, or failed piping was isolated and immediately emptied of regulated substance, and
- Records show one or more of the following steps were taken:
    - The tank or piping was removed
    - The tank or piping was permanently closed-in-place
    - The tank or piping was repaired or replaced and re-certified or re-warranted by the manufacturer within 30 days of the failed test, or if the repair or replacement could not be completed within 30 days (unless the MassDEP was notified that the repair could not be completed in 30 days) , placed temporarily out-of-service.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed tank or piping tightness test, and
- The criteria above were not met.

Answer N/A if:

Since the last third-party inspection:

- There are no records of failed tank or piping tightness tests

Question G15N has been deleted.

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Overview of Piping/Line Leak Detection

The four questions following this heading in the checklist, listed as 16A through 16D, apply to piping tightness testing for UST systems installed before January 1, 1989 only. There are two questions regarding non-European suction piping without secondary containment and without continuous interstitial monitoring (16A and 16B), and two questions (16C and 16D) regarding pressurized piping. If the facility does not use this type of leak detection system, answer N/A to Question G16. No other questions in this section need to be answered.

Introduction

All UST systems, with the exception of tanks equipped with European suction systems, and siphon lines between tanks, are required to install and maintain leak detection systems.

UST systems installed before January 1, 1989 equipped with non-European suction piping systems, without secondary containment and without continuous interstitial monitoring, may conduct tightness testing of the UST system piping every three years to satisfy the leak detection requirements.

UST systems installed before January 1, 1989 equipped with single-walled pressurized piping may conduct an annual tightness test of the piping to satisfy the leak detection requirements.

Please note that ALL pressurized piping systems must have an automatic line leak detector (ALLD).

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G16. Piping/Line Tightness Test – an option for certain piping systems installed before January 1, 1989 that do not have other listed leak detection.

If the facility does not use this type of leak detection system, answer N/A to Question G16. No other questions in this section need to be answered.

Questions G16A and G16B apply to Non-European suction piping, without secondary containment and continuous interstitial space monitoring

Non-European Suction Piping – Three Year Testing

G16A. Effective January 2, 2015: Are there records of passing tightness test results once every three years in accordance with 310 CMR 80.26(10)(a)?

Non-European piping without secondary containment and without continuous interstitial monitoring , if there is no other type of leak detection, must conduct and pass a tightness test of the piping every three years. Records of these tests must be maintained for a minimum of four years in accordance with 310 CMR 80.36(1)(j). **[310 CMR 80.19(4)(c)1.e., 310 CMR 80.26(10(a) and 310 CMR 80.36]**

Answer YES if ALL of the following are TRUE:

- The UST system was installed before January 1, 1989, and
- The UST system has single-walled, non-European suction piping, and
- Since the last third-party inspection:
  - There are records indicating that the piping has been tightness tested every three years (every 36 months), and
  - All tightness tests show that the piping 'passed'.

Answer NO if ANY of the following are TRUE:

- The UST system was installed after January 1, 1989, or
- The UST system does not have single-walled, non-European suction piping, or
- Since the last third-party inspection:
  - The records do not show that the piping was tested every three years, or
  - One of more of the records shows that the tightness test was a 'fail'.

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Non-European Suction Piping – Three Year Testing

G16B. As a result of failed piping/line tightness tests, are there records of compliance with the applicable requirements of 310 CMR 80.32(3)?

310 CMR 80.32(3) are the regulations that apply to facilities that have had tightness testing failures. A tank or pipe fails a tightness test if the test indicates that the system is not tight and that there has been a release. The tightness test must be conducted by a certified UST system tightness tester. If an UST system fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure. The UST Owner or Operator must also comply with release notification procedures, as follows:

If piping is the source of a release, the Owner or Operator must:

- Immediately isolate and empty the source of the release
- Have the piping replaced or repaired, or permanently close-in-place or remove the UST system
- Comply with MassDEP notification procedures, as applicable

All repairs or replacements must be completed within 30 days, unless the UST Owner or Operator notifies the MassDEP in writing of the need for an extended timeline, or if the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service.
[310 CMR 80.32(3); 210 CMR 80.33, 310 CMR 80.38; 310 CMR 80.39; and 310 CMR 40.0300]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show a failed piping tightness test, and
- Records show the failed piping was isolated and immediately emptied of regulated substance, and
- Records show one or more of the following steps were taken:
    - The piping was removed
    - The piping was permanently closed-in-place
    - The piping was repaired or replaced within 30 days of the failed test, or if the repair or replacement could not be completed within 30 days (unless the MassDEP was notified that the repair could not be completed in 30 days), placed temporarily out-of-service.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed piping tightness test, and
- The criteria above were not met.

Answer N/A if:

Since the last third-party inspection:

- There are no records of failed piping tightness tests

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Questions 16C and 16D apply to UST systems installed before January 1, 1989, with single-walled, pressurized piping.

Pressurized Piping – Annual Testing

G16C. Effective January 2, 2015: Are there records of passing annual tightness test results in accordance with 310 CMR 80.26(10)(b)?

UST systems installed before January 1, 1989 that are equipped with single-walled pressurized piping can conduct an annual tightness test to satisfy the leak detection requirements. Records of these tests must be maintained for a minimum of four years in accordance with 310 CMR 80.36(1)(j). **[310 CMR 80.26(10)(b) and 310 CMR 80.19(4)(c)1.d.]**

Answer YES if ALL of the following are TRUE:

Since the last third-party inspection:

- There are records indicating that the single-wall pressurized piping has been tightness tested every year (every 12 months), and
- The records show that the piping passed all of the annual tightness tests.

Answer NO if EITHER of the following is TRUE:

Since the last third-party inspection:

- One or more of the annual tightness tests was not conducted, or
- One or more of the annual tightness tests was a “failure”.

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Pressurized Piping – Annual Testing

G16D. As a result of failed piping/line tightness tests, are there records of compliance with the requirements of 310 CMR 80.32(3)?

310 CMR 80.32(3) are the regulations that apply to facilities that have had tightness testing failures. A tank or pipe fails a tightness test if the test indicates that the system is not tight and that there has been a release. The tightness test must be conducted by a certified UST system tightness tester. If an UST system fails a tightness test, the certified UST system tightness tester must immediately notify the UST Owner and Operator and the local fire department of the failure. The UST Owner or Operator must also comply with release notification procedures, as follows:

If piping is the source of a release, the Owner or Operator must:

- Immediately isolate and empty the source of the leakage or release
- Have the piping replaced or repaired, or permanently close-in-place or remove the UST system
- Comply with MassDEP notification procedures, as applicable

All repairs or replacements must be completed within 30 days, unless the UST Owner or Operator notifies the MassDEP in writing of the need for an extended timeline, or if the UST system is removed, permanently closed-in-place, or taken temporarily out-of-service.
[310 CMR 80.32(3); 210 CMR 80.33, 310 CMR 80.38; 310 CMR 80.39; and 310 CMR 40.0300]

Answer YES if ALL of the following statements are TRUE:

Since the last third-party inspection:

- Records show a failed piping tightness test, and
- Records show the failed piping was isolated and immediately emptied of regulated substance, and
- Records show one or more of the following steps were taken:
    - The piping was removed
    - The piping was permanently closed-in-place
    - The piping was repaired or replaced within 30 days of the failed test, or if the repair or replacement could not be completed within 30 days (unless the MassDEP was notified that the repair could not be completed in 30 days), placed temporarily out-of-service.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are records of a failed piping tightness test, and
- The criteria above were not met.

Answer N/A if:

Since the last third-party inspection:

- There are no records of failed piping tightness tests

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Overview of Automatic Line Leak Detectors

The three questions within this section in the third-party inspection checklist apply to automatic line leak detectors (ALLD) ONLY.

If the facility does not use this type of leak detection system, answer N/A to Question G17. No other questions in this section need to be answered.

Introduction

All pressurized piping systems must be equipped with an automatic line leak detector (ALLD). An ALLD is defined at 310 CMR 80.03 as "a mechanical or electronic device, but not a sump sensor, designed to detect regulated substance or pressure losses in a pressurized product line of a pressurized piping system and that automatically restricts flow or automatically shuts off flow in a pressurized system".

The ALLD must be tested annually to verify that it is operating properly.

If an ALLD is repaired or replaced, the ALLD must be tested for proper operation before it is returned to service.

G17. Automatic Line Leak Detection System?

If the facility does not use this type of leak detection system, answer N/A to Question G14. No other questions in this section need to be answered.

Automatic Line Leak Detectors

G17A. Are there records of annual passing test results?

An automatic line leak detector must be tested annually to verify that it is working properly. Records of the annual tests must be maintained according to 310 CMR 80.36. **[310 CMR 80.26(9)]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- There are records showing that the automatic line leak detector(s) (ALLD) have been tested annually to establish that they are working properly, and
- The records indicate that the ALLDs passed all the annual tests.

Answer NO if EITHER of the following is TRUE:

Since the last third-party inspection:

- Some or all of the records documenting the conduct of annual testing are missing, or
- Some or all of the records show that the ALLD(s) did not pass one or more of the annual tests.

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Automatic Line Leak Detectors

G17B. Are there records of System repair or replacement within 30 days of discovery of the need for repair or replacement?

If an ALLD fails an annual test, the Owner or Operator must repair or replace the ALLD within 30 days of obtaining knowledge of the failure, unless the tank is taken temporarily out-of-service, removed or closed in-place. The UST Owner or Operator may notify the MassDEP in writing of circumstances that prevent repair or replacement within 30 days.
[310 CMR 80.33(4)]

Answer YES if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that one or more ALLD failed to operate properly, and
- Records show that the failed ALLD was repaired or replaced, or the UST system was taken temporarily out-of-service, removed or closed-in-place, within 30 days of obtaining knowledge of the failure.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that one or more ALLD failed to operate properly, and
- There are no records showing that the ALLD was repaired or replaced, or the UST system was taken temporarily out-of-service, removed, or closed-in-place, within 30 days of obtaining knowledge of the failure.

Answer NA if:

Since the last third-party inspection:

- All automatic line leak detectors have passed every annual operational test.

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Automatic Line Leak Detectors

G17C. Are there records that repaired or replaced System components passed operational tests prior to the System being returned to service?

All components of leak detection systems that are repaired or replaced must be tested for proper operation prior to being returned to service within the UST system. The UST Owner or Operator must maintain records of the operational tests in accordance with 310 CMR 80.36(1). **[310 CMR 80.26(12)]**

Answer YES if BOTH of the following statements are TRUE:

Since the last third party inspection:

- Records show that one or more ALLD failed to operate properly, and
- Records indicate that the failed ALLD was repaired or replaced, and
- The repaired or replaced ALLD was tested for proper operation before it was returned to service.

Answer NO if BOTH of the following statements are TRUE:

Since the last third-party inspection:

- Records show that one or more ALLD failed to operate properly, and
- There are no records or missing records needed to show that the ALLD was repaired or replaced, and/or
- There are no records or missing records needed to show that the repaired or replaced ALLD was tested for proper operation before it was returned to service.

Answer NA if:

Since the last third-party inspection:

- All ALLD passed every annual operational test.

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Overview of Massachusetts Financial Responsibility Requirements for Underground Storage Tank (UST) Systems

Why is Financial Responsibility important?

Many Underground Storage Tank (UST) Systems have released petroleum and hazardous materials into the environment through spills, overfills, and failures of tanks and their piping systems. When these releases contaminate soil and groundwater, they can be very expensive to assess and clean up, and can damage neighboring properties as well as the property on which the UST System is located. When the U.S. Congress amended Subtitle I of the U.S. Resource Conservation and Recovery Act in 1986, it directed the U.S. Environmental Protection Agency to develop financial responsibility regulations for Owners and Operators of USTs storing petroleum. The Massachusetts Department of Fire Services incorporated the federal Financial Responsibility requirements into the Massachusetts UST Regulation in 1992. After the Massachusetts Legislature transferred the UST Program to MassDEP, the agency revised the Massachusetts UST Regulation in January 2015, and extended financial responsibility requirements to Owners and Operators of tanks holding hazardous materials as well as petroleum. What UST systems have to have Financial Responsibility? Owners or Operators of all UST Systems that are covered by the Massachusetts Underground Storage Tank Regulations must demonstrate that they have Financial Responsibility. However, the following types of tanks are exempt from this requirement:

• UST systems containing radioactive material that is regulated under the U.S. Atomic Energy Act of 1954 (42 U.S.C. §2011 et. al.);

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

• UST systems containing low level radioactive waste or its mixture with hazardous waste regulated by the U.S. Nuclear Regulatory Commission and the MA Department of Public Health;

• UST systems that are part of a storm water or wastewater treatment facility not regulated under section 402 or 307(b) of the federal Clean Water Act or the Massachusetts Clean Water Act (M.G.L. c. 21 §§ 26-53);

• Tanks storing heating oil used on the premises where it is stored (consumptive use tanks);

• Farm and residential tanks of 1,100 gallons or less capacity holding motor fuel used for noncommercial purposes;

• Emergency spill and overfill tanks; and • UST systems owned by state or federal government agencies.

How much Financial Responsibility does each Owner or Operator need to have?

Two kinds of Financial Responsibility are required for each UST System: 1. For each occurrence of a release of regulated substance into the environment:

• An Owner or Operator of an UST system(s) handling an average of 10,000 gallons of regulated substance per month or less (based on their annual throughput for the previous calendar year) must have at least $500,000.

• An Owner or Operator of UST systems handling an average of more than 10,000 gallons of regulated substance per month (based on the annual throughput for the previous calendar year) must have at least $1 million per occurrence and $2 million annual aggregate for cleanup and third party damage expenses related to a release of regulated substance into the environment:

• An Owner or Operator of 1-100 tanks must have at least $1 million to cover annual aggregate expenses.

• An Owner or Operator of 101 tanks or more must have at least $2 million to cover annual aggregate expenses.

What options are available for meeting the Financial Responsibility requirements?

The options that are available for meeting the Financial Responsibility requirements for USTs in Massachusetts can be viewed in a series of charts, found at:

http://www.mass.gov/eea/docs/dep/toxics/ust/ust-frcharts.pdf

• Chart 1 describes the mechanisms that are available to UST system Owners and Operators to meet the Financial Responsibility requirements.

• Charts 2 and 3 provide eligibility details for two specific mechanisms, the Financial Test of Self-Insurance and the Guarantee, respectively.

• Chart 4 describes additional mechanisms available to local governments that own and operate UST systems; these mechanisms cannot be used by UST system Owners and Operators that are not local governments.

This guidance also provides the following appendices, found at:

http://www.mass.gov/eea/docs/dep/toxics/ust/ust-frapp.pdf

• Appendix 1 is a template for the Certification of Financial Responsibility (described below).

• Appendix 2 is a worksheet that must be used by UST system Owners and Operators that are not local governments to demonstrate that they are eligible to use the “Financial Test of Self-Insurance.”

• Appendix 3 is a worksheet that must be used by local governments to calculate their “Financial Index” that is the basis for determining eligibility for the Local Government Financial Test mechanism (for local governments that use this option). Please note that only local government UST system Owners and Operators can use the Financial Responsibility mechanisms described in Chart 4. Local government UST system Owners and Operators may also use any of the Financial Responsibility mechanisms described in Charts 1-3 except the UST Petroleum Product Cleanup Fund, also known as the “21J Fund” (see Chart 1). Local governments are:

(1) Cities, municipalities and towns, separately chartered and operated special districts (including, but not limited to local government public transit systems and redevelopment authorities), and independent school districts authorized as governmental bodies by state charter or constitution in the Commonwealth; and

(2) Special districts and independent school districts established by cities, municipalities or towns, and other general purpose governments to provide essential services.

When does an UST System Owner or Operator need Financial Responsibility?

Financial Responsibility that meets the requirements described above needs to be established when a regulated substance is introduced into the UST system. The Owner must include information about their Financial Responsibility mechanism when the UST system is registered in the MassDEP UST Data Management System. If an UST system's Financial Responsibility mechanism changes (e.g., from one type to another or coverage amounts are changed), the UST system's registration in the MassDEP UST Data Management System must be updated within 30 days of the change. The amount of annual aggregate coverage must be reviewed whenever additional tanks are acquired or installed. If the acquisition or installation of additional tanks brings the number of tanks for which Financial Responsibility must be provided to more than 100, the Owner or Operator must obtain annual aggregate coverage of $2 million within 60 days of the UST system's installation. The Owner or Operator must also update the UST system's registration in the MassDEP Data Management System with the new financial assurance data within 30 days of obtaining the new Financial Responsibility mechanism.

What records do UST system Owners and Operators need to keep to document that they have obtained adequate financial responsibility for their UST systems?

The recordkeeping requirements vary according to the Financial Responsibility mechanism that an UST system Owner or Operator is using to meet the Financial Responsibility requirements, as described in Charts 1 and 4. In addition to the recordkeeping requirements for each mechanism, the UST system Owner or Operator must keep an up-to-date "Certification of Financial Responsibility" on file. This Certification lists all of the mechanisms that are currently being used to meet the required Financial Responsibility coverage and the dollar amount of coverage that each mechanism provides.

The Massachusetts UST Regulation [310 CMR 80.59(3)] requires that specific language be used for this Certification. Appendix 1 contains a template for this Certification. Please note that the Certification of Financial Responsibility is different from any Certificate of Insurance that would be provided by a qualified insurer or risk retention group documenting coverage by a specific policy or an endorsement to an existing policy that an UST Owner or Operator may purchase to comply with all or part of the Financial Responsibility requirements. The Certificate of Insurance states that the insurance company will pay for specified damages, injuries or losses, but does not describe any other mechanisms that the Owner or Operator is using to fully comply with the Financial Responsibility requirements (which need to be listed on the Certification of Financial Responsibility).

A new Certification of Financial Responsibility must be prepared each time a mechanism is changed or replaced. When MassDEP staff inspects an UST system, they will verify Financial Responsibility records, and the Certification must be provided to MassDEP inspectors within seven days of receiving a request for it.

What Financial Responsibility records must be submitted to MassDEP?

Charts 1 and 4 describe the submittal requirements for each Financial Responsibility mechanism.

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The Financial Responsibility section of the regulation (310 CMR 80.51 et. seq.) includes the specific language that is required for certain mechanisms and demonstrations, as well as helpful work sheets to ensure that all of the requirements for the Financial Test of Self-Insurance (including requiring calculations) are met.

If your UST System relies on the Massachusetts Petroleum Product Cleanup Fund (established by M.G.L. c. 21J and operated by the Massachusetts Department of Revenue) to meet all or part of your Financial Responsibility obligations, you can find the status of your System's Certification of Compliance at this link:

http://www.mass.gov/dor/docs/dor/ust/reports/pdf/compliance-report.pdf

If you have questions about Financial Responsibility or other UST requirements, contact the MassDEP UST Hotline by email at DEP.UST@state.ma.us or by telephone at 617-556-1035, extension 2.

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Financial Responsibility Overview (310 CMR 80.52)

Background

As previously noted in the overview of FR requirements for UST systems, all UST System Owners or Operators (O/O) must demonstrate and maintain financial responsibility for taking corrective action and for compensating third-parties for bodily injury and property damage caused by accidental releases arising from the operation of UST Systems. (310 CMR 80.52(1))

O/O Minimum Per-Occurrence coverage requirement (310 CMR 80.52(2)):

- Handle greater than10,000 gallons of regulated substance per month based on previous calendar year: $1 million
- All other O/O of UST Systems: $500,000

O/O Minimum corrective action/third-party compensation coverage requirement (310 CMR 80.52(3)):

- O/O of 1-100 tanks: $1 million
- O/O of 101 or more tanks: $2 million

O/O may use one or more financial mechanisms to meet their Financial Responsibility requirements in accordance with 310 CMR 80.52(4) and (5).

O/O must maintain to following current financial responsibility records and documents:

- A current, and in effect, copy of their financial instrument documentation (310 CMR 80.52(1));
- Current registration in the UST Data Management System ; and
- Current Certificate of Financial Responsibility in accordance with 310 CMR 80.59(3).

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H. Financial Responsibility: Overview

UST Financial Responsibility Mechanism General Requirements

Financial Responsibility

1. ***Are all facility USTs subject to 310 CMR 80.00 covered by a Financial Responsibility mechanism?***

   Answer Yes if:

- During on-site Third-Party Inspection all USTs subject to 310 CMR 80.00 were identified;
- All identified USTs subject to 310 CMR 80.00 are registered in the UST DMS; and
- All registered USTs are covered by an allowable, current and in effect financial responsibility mechanism meeting minimum coverage requirements.

Answer No, if you did not answer Yes.

Financial Responsibility

2. ***Are all registered Financial Responsibility mechanisms currently in effect?***

   Answer Yes if:

- During the Third-Party Inspection, current copies of all required financial responsibility documents were reviewed and determined to be current and in effect.

  Answer No, if you did not answer Yes.

3. ***Are applicable minimum per occurrence and aggregate coverage requirements complied with?***

   Answer Yes if:

- During the Third-Party Inspection, current copies of all required financial responsibility documents were reviewed and determined to meet applicable minimum per occurrence and aggregate coverage requirements.

  Answer No, if you did not answer Yes.

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UST Financial Responsibility Mechanism Review

Financial Responsibility

4A. Underground Storage Tank Petroleum Product Cleanup Fund (21J Program)?

4A. 1. ***A copy of current Certificate of Compliance in accordance with 310 CMR 80.59(2)(a).***

Answer Yes if:

- at the time of Third-Party Inspection, a Department of Revenue UST Program 21J Certificate of Compliance is reviewed and determined to be complete and in effect.

Answer No, if you did not answer Yes.

Financial Responsibility

4A. 2. ***Signed Certification of Financial Responsibility in accordance with 310 CMR 80.59(3).***

Answer Yes if, at the time of Third-Party Inspection:

- A Certificate of Financial Responsibility was reviewed in compliance with 310 CMR 80.59(3), and the determination was made that:

- The signed Certificate of Financial Responsibility contains identical data for the following data fields as is entered in the MassDEP UST DMS financial responsibility registration:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

- The Certificate of Financial Responsibility is current and complete.

Answer No, if you did not answer Yes.

Financial Responsibility

4B. Commercial Insurance?

4B. 1. ***Copy of the signed insurance coverage policy, with the endorsement or certificate of insurance and any amendments to the agreements in accordance with 310 CMR 80.59(2)(b).***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the signed commercial insurance coverage policy, with the endorsement or certificate of insurance and any amendments/endorsements to the policy were reviewed in accordance with 310 CMR 80.54(2), and the following determination was made that:

- The financial responsibility instrument is current and in effect.

- The following documentation for this FR instrument is correctly entered in the UST Data Management System:

  i. Financial Responsibility Instrument type
  ii. Effective period of coverage from/to
  iii. Name of issuer/holder
  iv. Mechanism number (if applicable)
  v. Per occurrence coverage
  vi. Aggregate coverage
  vii. Type of coverage

Answer No, if you did not answer Yes.

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Financial Responsibility

4B. 2. ***Signed Certification of Financial Responsibility in accordance with 310 CMR 80.59(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a Certificate of Financial Responsibility was reviewed in compliance with 310 CMR 80.59(3), and a determination was made that:

- The signed Certificate of Financial Responsibility contains identical data as is entered in the MassDEP UST DMS financial responsibility registration for the following data fields:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

- The Certificate of Financial Responsibility is current and complete.

Answer No, if you did not answer Yes.

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4C. Financial Test of Self Insurance (In accordance with 310 CMR 80.59(2)(j))?

Financial Responsibility

4C. 1. ***For the most recently complete financial reporting year, CFO's letter based on year-end financial statements.***

Answer Yes if:

- at the time of Third-Party Inspection, a CFO's letter based on the most recent complete financial reporting year's year-end financial statements was reviewed in accordance with 310 CMR 80.54(10)(b) or (c), and the following was determined:

- The Financial Test of Self Insurance is current and in effect.

- The following documentation for this FR mechanism is correctly entered in the UST Data Management System:

  i. Financial Responsibility Instrument type
  ii. Effective period of coverage from/to (12-month reporting period)
  iii. Name of issuer/holder (not applicable)
  iv. Mechanism number (if applicable)
  v. Per occurrence coverage
  vi. Aggregate coverage
  vii. Type of coverage

Answer No, if you did not answer Yes.

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Financial Responsibility

4C. 2. ***For the most recently complete financial reporting year, Year-end financial statements on which the financial test is based.***

Answer Yes if:

- at the time of Third-Party Inspection, A CFO 's letter based on the most recently completed financial reporting year's year-end financial statements were reviewed in accordance with 310 CMR 80.54(10(b) or (c), and the following was determined:

- The year-end financial statements were independently audited.

- Did not include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor.

Answer No, if you did not answer Yes.

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Financial Responsibility

4C. 3. ***Signed Certification of Financial Responsibility in accordance with 310 CMR 80.59(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a Certificate of Financial Responsibility was reviewed in accordance with 310 CMR 80.59(3), and the following was determined:

- The signed Certificate of Financial Responsibility contains identical data as is entered in the MassDEP UST DMS financial responsibility registration for the following data fields:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder (not applicable)
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

- The Certificate of Financial Responsibility is current and complete.

Answer No, if you did not answer Yes.

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4D. Guarantee (In accordance with 310 CMR 80.59(2)(k))?

Financial Responsibility

4D. 1. ***CFO's letter based on year-end financial statements for the most recent complete financial reporting year.***

Answer Yes if:

- at the time of Third-Party Inspection, the CFO's letter from the guarantor demonstrating having met the financial test, based on the latest completed financial reporting year's year-end financial statements, was reviewed in accordance with 310 CMR 80.54(11)(b) and the following was determined:

- The year-end financial statements were independently audited.

- Did not include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" disclaimer.

- The Financial Test of Self Insurance is current and in effect.

- A Standby Trust Agreement has been established in accordance with 310 CMR 80.55(2) and a copy of the signed Standby Trust Agreement is present during the inspection.

- The following documentation for the FR instrument is correctly entered in the UST Data Management System:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to (12-month reporting period)
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

Answer No, if you did not answer Yes.

Financial Responsibility

4D. 2. ***Copy of current signed standby trust fund agreement and any amendments accompanied by certification of acknowledgement in accordance with 310 CMR 80.55(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the following documents were reviewed and determined to be complete and in effect:

- The current Standby Trust Agreement and any amendments in accordance with 310 CMR 80.54(11)(d).

- The certification of acknowledgement in accordance with 310 CMR 80.55(3).

Answer No, if you did not answer Yes.

Financial Responsibility

4D. 3. ***Signed Certification of Financial Responsibility in accordance with 310 CMR 80.59(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a Certificate of Financial Responsibility was reviewed in compliance with 310 CMR 80.59(3), and determined:

- The signed Certificate of Financial Responsibility contains identical data as is entered in the MassDEP UST DMS financial responsibility registration for the following data fields:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

- The Certificate of Financial Responsibility is current and complete.

Answer No, if you did not answer Yes.

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4E. Risk Retention Group Coverage?

Financial Responsibility

4E. 1. ***Copy of the signed risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments to the agreements in accordance with 310 CMR 80.59(2)(b).***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the signed risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments/endorsements to the policy were reviewed in accordance with 310 CMR 80.54(2), and the following determination was made that:

- The financial responsibility instrument is current and in effect.

- The following documentation for this FR instrument is correctly entered in the UST Data Management System:

  i. Financial Responsibility Instrument type
  ii. Effective period of coverage from/to
  iii. Name of issuer/holder
  iv. Mechanism number (if applicable)
  v. Per occurrence coverage
  vi. Aggregate coverage
  vii. Type of coverage

Answer No, if you did not answer Yes.

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Financial Responsibility

4E. 2. ***Signed Certification of Financial Responsibility in accordance with 310 CMR 80.59(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a Certificate of Financial Responsibility was reviewed in compliance with 310 CMR 80.59(3), and a determination was made that:

- The signed Certificate of Financial Responsibility contains identical data as is entered in the MassDEP UST DMS financial responsibility registration for the following data fields:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

- The Certificate of Financial Responsibility is current and complete.

Answer No, if you did not answer Yes.

4F. Surety Bond (In accordance with 310 CMR 80.59(2)(c))?

Financial Responsibility

4F. 1. ***Copy of the surety bond and any amendments.***

.

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the surety bond and amendments was reviewed in accordance with 310 CMR 80.54(3), and the following determined:

- The Surety Bond is current and in effect.

- A Standby Trust Agreement has been established in accordance with 310 CMR 80.55(2) and a copy of the signed Standby Trust Agreement is present during the inspection.

- The following documentation for the FR instrument is correctly entered in the UST Data Management System:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

Answer No, if you did not answer Yes.

Financial Responsibility

4F. 2 ***Copy of current signed standby trust fund agreement and any amendments, accompanied by certification of acknowledgement in accordance with 310 CMR 80.55(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of current signed Standby Trust Agreement and any amendments in accordance with 310 CMR 80.55(2), accompanied by certification of acknowledgement were reviewed in accordance with 310 CMR 80.55(3), and determined to be current and in effect.

Answer No, if you did not answer Yes.

Financial Responsibility

4F. 3. Signed Certification of Financial Responsibility in accordance with 310 CMR 80.59(3).

Answer Yes if:

- at the time of Third-Party Inspection, a Certificate of Financial Responsibility was reviewed in accordance with 310 CMR 80.59(3), and the following was determined:

- The signed Certificate of Financial Responsibility contains identical data as is entered in the MassDEP UST DMS financial responsibility registration for the following data fields:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

- The Certificate of Financial Responsibility is current and complete.

Answer No, if you did not answer Yes.

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4G. Irrevocable Standby Letter of Credit (In accordance with 310 CMR 80.59(2)(d))?

Financial Responsibility

4G. 1. ***Copy of current letter of credit and any amendments.***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the current letter of credit and any amendments were reviewed in accordance with 310 CMR.80.54(4)(b) and the following was determined:

- The Irrevocable Standby Letter of Credit is current and in effect.

- The following documentation for the FR instrument is correctly entered in the UST Data Management System:

  i. Financial Responsibility Instrument type
  ii. Effective period of coverage from/to
  iii. Name of issuer/holder
  iv. Mechanism number (if applicable)
  v. Per occurrence coverage
  vi. Aggregate coverage
  vii. Type of coverage

Answer No, if you did not answer Yes.

Financial Responsibility

4G. 2. ***Copy of the current signed standby trust fund agreement and any amendments, accompanied by certification of acknowledgement in accordance with 310 CMR 80.55(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of current signed Standby Trust Agreement and any amendments in accordance with 310 CMR 80.55(2), accompanied by certification of acknowledgement was reviewed in accordance with 310 CMR 80.55(3), and determined to be complete and in effect.

Answer No, if you did not answer Yes.

Financial Responsibility

4G. 3. ***Signed Certification of Financial Responsibility in accordance with 310 CMR 80.59(3).***

Answer Yes if,:

- at the time of Third-Party Inspection, a Certificate of Financial Responsibility was reviewed in compliance with 310 CMR 80.59(3), and determined:

- The signed Certificate of Financial Responsibility contains identical data as is entered in the MassDEP UST DMS financial responsibility registration for the following data fields:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of Coverage

- The Certificate of Financial Responsibility is current and complete.

Answer No, if you did not answer Yes.

4H. Trust Fund (In accordance with 310CMR 80.59(2)(e))?

Financial Responsibility

4H. 1. ***Copy of the current signed trust fund agreement and any amendments, accompanied by certification of acknowledgement in accordance with 310 CMR 80.55(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the trust fund agreement was reviewed in accordance with 310 CMR 80.54(5), and the following determined:

- The financial instrument is current and in effect.

- The following documentation for the FR instrument is correctly entered in the UST Data Management System:

  i. Financial Responsibility Instrument type
  ii. Effective period of coverage from/to
  iii. Name of issuer/holder
  iv. Mechanism number (if applicable)
  v. Per occurrence coverage
  vi. Aggregate coverage
  vii. Type of coverage

Answer No, if you did not answer Yes.

Financial Responsibility

4H. 2. ***Signed Certification of Financial Responsibility in accordance with 310 CMR 80.59(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a Certificate of Financial Responsibility was reviewed in compliance with 310 CMR 80.59(3), and determined:

- The signed Certificate of Financial Responsibility contains identical data as is entered in the MassDEP UST DMS financial responsibility registration: for the following data fields:

  i. Financial Responsibility Instrument type
  ii. Effective period of coverage from/to
  iii. Name of issuer/holder
  iv. Mechanism number (if applicable)
  v. Per occurrence coverage
  vi. Aggregate coverage
  vii. Type of coverage

- The Certificate of Financial Responsibility is current and complete.

Answer No, if you did not answer Yes.

4I. Local Government Financial Test of Insurance (In accordance with 310 CMR 80.59(2)(h))?

Financial Responsibility

4I. 1. ***CFO's letter based on year-end financial statements for the most recent complete financial reporting year.***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the CFO's letter based on year-end financial statements for the most recent complete financial reporting year were reviewed in accordance with 310 CMR 80.54(8)(e), and the following determined:

- The financial instrument is current and in effect.

- The following documentation for this FR instrument is correctly entered in the UST Data Management System:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

Answer No, if you did not answer Yes.

Financial Responsibility

4I. 2. ***Signed Certification of Financial Responsibility in accordance with 310 CMR 80.59(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a Certificate of Financial Responsibility was reviewed in compliance with 310 CMR 80.59(3), and the following was determined:

- The signed Certificate of Financial Responsibility contains identical data as is entered in the MassDEP UST DMS financial responsibility registration for the following data fields:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

- The Certificate of Financial Responsibility is current and complete.

Answer No, if you did not answer Yes.

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4J. Local Government Guarantee (In accordance with 310 CMR 80.59(2)(i))?

Financial Responsibility

4J. 1. (When supported by a local government financial test) CFO's letter based on year-end financial statements for the most recent complete financial reporting year.

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the CFO's letter based on year-end financial statements for the most recent complete financial reporting year is reviewed in accordance with 310 CMR 80.54(8)(e), and the following was determined:

- The financial instrument is current and in effect.

- The following documentation for this FR instrument is correctly entered in the UST Data Management System:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

Answer No, if you did not answer Yes.

Financial Responsibility

4J. 2. ***(When guarantee is supported by a standby trust) Copy of current signed standby trust fund agreement and any amendments, accompanied by certification of acknowledgement in accordance with 310 CMR 80.55(3).***

Answer Yes if:

- at the time of Third-Party Inspection, the following documents were reviewed in compliance with the applicable requirements:
- The current Standby Trust Agreement
- Any amendments to the Standby Trust Agreement in accordance with 310 CMR 80.54(9)(d) or (e).
- The certification of acknowledgement in accordance with 310 CMR 80.55(3) and the following was determined:
- The Standby Trust Agreement is current and in effect.
- The following documentation for this FR instrument is correctly entered in the UST Data Management System:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

Answer No, if you did not answer Yes.

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Financial Responsibility

4J. 3. ***(Where the guarantor's demonstration of financial responsibility relies on the local government's bond rating) a copy of the guarantor's bond rating published within the last 12 months by Moody's or Standard & Poor's.***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the CFO's letter based on year-end financial statements for the most recent complete financial reporting year is reviewed in accordance with 310 CMR 80.54(9)(a)1., 2. or 3., as applicable, and the following is determined:

- The financial instrument is current and in effect.

- The following documentation for this FR instrument is correctly entered in the UST Data Management System:

  i. Financial Responsibility Instrument type
  ii. Effective period of coverage from/to
  iii. Name of issuer/holder
  iv. Mechanism number (if applicable)
  v. Per occurrence coverage
  vi. Aggregate coverage
  vii. Type of coverage

Answer No, if you did not answer Yes.

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Financial Responsibility

4J. 4. ***(When using a local government guarantee supported by the local government fund) a copy of guarantor's year-end financial statements for the most recent completed financial reporting year showing the amount of the fund.***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the guarantor CFO's letter to the local government Owner or Operator in compliance with 310 CMR 80.54(9)(a)1. – 3. was reviewed in accordance with 310 CMR 80.54(9)(a)1. – 3, and the following determined:

- The financial instrument is current and in effect.

- The following documentation for this FR instrument is correctly entered in the UST Data Management System:

  i. Financial Responsibility Instrument type
  ii. Effective period of coverage from/to
  iii. Name of issuer/holder
  iv. Mechanism number (if applicable)
  v. Per occurrence coverage
  vi. Aggregate coverage
  vii. Type of coverage

Answer No, if you did not answer Yes.

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Financial Responsibility

4J. 5. ***Signed Certificate of Financial Responsibility in accordance with 310 CMR 80.59(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a Certificate of Financial Responsibility was reviewed in compliance with 310 CMR 80.59(3), and determined:

- The signed Certificate of Financial Responsibility contains identical data as is entered in the MassDEP UST DMS financial responsibility registration for the following data fields:

  i. Financial Responsibility Instrument type
  ii. Effective period of coverage from/to
  iii. Name of issuer/holder
  iv. Mechanism number (if applicable)
  v. Per occurrence coverage
  vi. Aggregate coverage
  vii. Type of coverage

- The Certificate of Financial Responsibility is current and complete.

Answer No, if you did not answer Yes.

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Financial Responsibility

4K. Local Government Bond Rating Test (In accordance with 310 CMR 80.59(2)(f)?

4K. 1. ***A copy of local government's bond rating published within the last 12 months by Moody's or Standard & Poor's.***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the local government's bond rating published within the last 12 months by Moody's or Standard & Poor's was reviewed in accordance with 310 CMR 80.54(6)(d), and determined to be current and in effect.

Answer No, if you did not answer Yes.

Financial Responsibility

4K. 2. ***A copy of the letter signed by the CFO in accordance with 310 CMR 80.54(6)(e).***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the CFO's letter was reviewed in accordance with 310 CMR 80.54(6)(e), and determined:

- The financial instrument is current and in effect.

- The following documentation for this FR instrument is correctly entered in the UST Data Management System:

  i. Financial Responsibility Instrument type
  ii. Effective period of coverage from/to
  iii. Name of issuer/holder
  iv. Mechanism number (if applicable)
  v. Per occurrence coverage
  vi. Aggregate coverage
  vii. Type of coverage

Answer No, if you did not answer Yes.

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Financial Responsibility

4K. 3. ***Signed certification of Financial Responsibility in accordance with 310 CMR 80.59(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a Certificate of Financial Responsibility was reviewed in compliance with 310 CMR 80.59(3), and determined:

- The signed Certificate of Financial Responsibility contains identical data as is entered in the MassDEP UST DMS financial responsibility registration for the following data fields:

    i. Financial Responsibility Instrument type
    ii. Effective period of coverage from/to
    iii. Name of issuer/holder
    iv. Mechanism number (if applicable)
    v. Per occurrence coverage
    vi. Aggregate coverage
    vii. Type of coverage

- The Certificate of Financial Responsibility is current and complete.

Answer No, if you did not answer Yes.

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4L. Local Government Fund (In accordance with 310 CMR 80.59(2)(g))?

Financial Responsibility

4L. 1. ***A copy of the state constitutional provision or local government statute, charter, ordinance, or order dedicating the fund.***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the state constitutional provision or local government statute, charter, ordinance, or order dedicating the fund was reviewed in accordance with 310 CMR 80.54(7)(a)), and is determined to be current and in effect.

Answer No, if you did not answer Yes.

Financial Responsibility

4L. 2. ***A copy of the letter signed by the CFO in accordance with 310 CMR 80.54(7)(b).***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the CFO's letter demonstrating compliance with the requirements of the local government fund was reviewed in accordance with 310 CMR 80.54(7)(b), and determined that:

- The financial instrument is current and in effect.

- The following documentation for this FR instrument is correctly entered in the UST Data Management System:

  i. Financial Responsibility Instrument type
  ii. Effective period of coverage from/to
  iii. Name of issuer/holder
  iv. Mechanism number (if applicable)
  v. Per occurrence coverage
  vi. Aggregate coverage
  vii. Type of coverage

Answer No, if you did not answer Yes.

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Financial Responsibility

4L. 3. ***Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is using incremental funding backed by bonding authority, the financial statement must show the previous year's balance, the amount of funding during the year and the closing balance of the fund.***

Answer Yes if:

- at the time of Third-Party Inspection, a copy of the local government's year-end financial statements for the most recent completed financial reporting year showing the amount in the fund available was reviewed in accordance with 310 CMR 80.54(7)(b), and determined to be current and in effect.

Answer No, if you did not answer Yes.

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Financial Responsibility

4L. 4. ***(Where the fund is established using incremental funding backed by bonding authority) documentation or the required bonding authority, including the results of a voter referendum or attestation by the State Attorney General.***

Answer Yes if:

- at the time of Third-Party Inspection, documentation or the required bonding authority, including the results of a voter referendum or attestation by the State Attorney General was reviewed in accordance with 310 CMR 80.54(7)(a)(3)(a), and determined to be current and in effect.

Answer No, if you did not answer Yes.

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Financial Responsibility

4L. 5. ***Signed Certificate of Financial Responsibility in accordance with 310 CMR 80.59(3).***

Answer Yes if:

- at the time of Third-Party Inspection, a Certificate of Financial Responsibility was reviewed in compliance with 310 CMR 80.59(3), and determined:

- The signed Certificate of Financial Responsibility contains identical data as is entered in the MassDEP UST DMS financial responsibility registration for the following data fields:

  i. Financial Responsibility Instrument type
  ii. Effective period of coverage from/to
  iii. Name of issuer/holder
  iv. Mechanism number (if applicable)
  v. Per occurrence coverage
  vi. Aggregate coverage
  vii. Type of coverage

- The Certificate of Financial Responsibility is current and complete.

Answer No, if you did not answer Yes.

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310 CMR 80.00: UNDERGROUND STORAGE TANK (UST) SYSTEMS

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Bonds GENERAL PROVISIONS

80.1 : Authority

310 CMR 80.00 is promulgated by the Commissioner of the Department of Environmental Protection pursuant to the authority granted by M.G.L. c. 21O, § 5, M.G.L. c. 21C, M.G.L. c. 21E, § 6 and M.G.L. c. 21A, § 16.

80.2 : Purpose

310 CMR 80.00 is intended to protect public health, safety and the environment byregulating the design, installation, testing, maintenance, operation, inspection and closure of underground storage tank (UST) systems and to prevent releases from USTsystems.

80.3 : Definitions

For the purposes of 310 CMR 80.00, the following terms shall have the following meanings:

Automatic Line Leak Detector means a mechanical or electronic device, but not a sump sensor, designed to detect regulated substance or pressure losses in a pressurized product line of a pressurized pumping system and that automatically restricts flow or automatically shuts off flow in a pressurized piping system. At UST facilities that are staffed 24 hours per day, seven days per week, 365 days per year, an automatic line leak detector may also be a continuous alarm that alerts staff when there is regulated substance or pressure loss in a pressurized product line of a pressurized pumping system.

Business Day means a day of the week that the Department is open for business.

Cathodic Protection or Cathodic Protection System means a technique which inhibits the corrosion of a UST system either through sacrificial or galvanic anode or impressed current.

Cathodic Protection Tester means a person who is certified as follows:

(a) Certified at least at level CP1 - Cathodic Protection Tester by NACE: The Corrosion Society; or

(b) Certified as a Cathodic Protection Tester by the Steel Tank Institute (STI); or

80.03: continued

(c) Certified in the UST Cathodic Protection category by the International Code Council (ICC).

CERCLA means the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq*.

Certified UST System Tightness Tester means a person certified by the manufacturer of the testing equipment to test UST systems using only the testing equipment on which they are certified.

Change-in-product means changing the type of product in a UST system from a regulated substance to another regulated substance or to a non-regulated substance. Changing from one grade of gasoline to a different grade of gasoline is not a change-in-product.

Commissioner means Commissioner of the Department of Environmental Protection.

Commonwealth means the Commonwealth of Massachusetts.

Compatible means does not have an adverse affect.

Consumptive Use Tank means a tank used to store fuel oil used exclusively for area heating and/or the heating of domestic water on the premises where stored. A tank used to store waste oil is not a consumptive use tank.

Continuous Monitoring means the use of a device capable of automatic, uninterrupted and unattended surveillance.

Corrosion Expert means a person who is accredited or certified as being qualified by NACE: The Corrosion Society as a Cathodic Protection Specialist or Corrosion Specialist. The corrosion expert shall follow applicable NACE criteria.

Corrosion Protection means the use of a technology, material, or method of construction to prevent any metallic component of a UST system from corroding (*e.g.*, cathodic protection or the use of fiberglass-reinforced plastic or other polymer resins when constructing tanks or piping).

Department means Massachusetts Department of Environmental Protection.

Dispenser Sump means an impermeable, fluid-tight basin installed beneath a regulated substance dispenser to contain leakage of regulated substance from the dispenser connections and piping. Double-walled means a container or pipe with two complete shells which provide primary and secondary containment. The container shall have a continuous interstitial space between the primary and secondary shell.

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

Empty or Emptied means when all regulated substance has been removed from a tank using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3% by weight of the total capacity of the tank, remains in the tank.

European Suction System means an underground suction piping system which is sloped back to the tank so that the contents of the piping will drain back into the tank if the suction is released, and only one check valve is included in each suction line and is located directly under the dispenser pump.

80.3 : continued

Farm means an operation engaged in Agriculture or Farming as defined in M.G.L. c. 128, § 1A.

Fuel Oil means any hydrocarbon oil as specified by the *American Society of Testing and Materials (ASTM) Standard D396 90, Specification for Fuel Oil*.

Hazardous Substances means regulated substances as defined in § 101(14) of CERCLA and 40 CFR Part 302. (Hazardous Substances does not include any substance regulated as a hazardous waste under Subtitle C of RCRA and 40 CFR Part 261).

Intermediate Sump means an impermeable, fluid-tight basin, installed below grade to allow access to fittings and regulated substance piping that is used to allow piping declines to tanks or to provide access at key points in the piping system. Intermediate sumps shall be designed to collect leakage of regulated substance and fluids and prevent a release into the environment.

Interstitial Monitoring means the continuous surveillance of the space between the walls of a double-walled tank or double-walled piping.

Interstitial Space means the space between the primary and secondary barriers of a secondarily contained system (*e.g.*, the space between the two walls of a double-wall tank).

Leakage means the escape of regulated substance from a UST system into a UST component not intended to store regulated substance, including, but not limited to, interstitial spaces, a turbine sump, intermediate and dispenser sumps and containment areas.

Leak Detection means determining whether a release or leakage of a regulated substance has occurred from the UST system.

Lining or Lined means a liquid-tight non-corrodible material that is bonded firmly to the interior surface of a tank and that is compatible with any regulated substance stored in the tank.

Listed if referring to equipment or materials means a list published by a nationally recognized organization, including, but not limited to American Petroleum Institute (API), Steel Tank Institute (STI), Petroleum Engineering Institute (PEI), Underwriters Laboratories, Inc. and NACE: The Corrosion Society concerned with product evaluation, that maintains periodic inspection of production of listed equipment or materials and whose listing states either that equipment or materials meet appropriate standards or have been tested and found suitable for use in a specific manner.

Manufacturer's Specifications mean information provided or prescribed by the manufacturer of a UST system or UST component including, but not limited to, manuals, instructions, checklists, testing requirements and maintenance requirements.

Monitoring Device means an instrument that checks and keeps data and issues alerts and alarms.

NACE means NACE International: The Corrosion Society, a globally recognized authority on corrosion control solutions.

Non-European Suction System means a piping system that conveys regulated substance under suction with a check valve in or at the top of the tank located so that the regulated substance stays in the line when the suction is released.

Operator means:

(a) In the case of a UST 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 a UST system used for the storage, use, or dispensing of regulated substances; or

(b) In the case of any UST 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.

80.3 : continued

Out-of-use means a UST system that has been taken temporarily out-of-service in accordance with 310 CMR 80.42, but has exceeded the five year limitation.

Owner means:

(a) In the case of a UST system in use on November 8, 1984, or brought into use after that date, any person who owns a UST system used for the storage, use, or dispensing of regulated substances; or

(b) In the case of any UST 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.

Pipe, Piping or Line means the hollow cylinder or the tubular conduit that is constructed of non-earthen materials.

Pressurized Piping System means a pressurized line system in which regulated substances are supplied to a point away from the tank by means of a pumping unit.

P.S.I. means pounds per square inch.

RCRA means the Solid Waste Disposal Act, 42 U.S.C. § 6901 *et seq*., as revised by the Resource Conservation and Recovery Act, Pub. L. 94-580, 90 Stat. 2795 (1976).

Red Tag means a tag, device or mechanism affixed on the UST systems' fill pipes by the Department that clearly identifies a tank as ineligible for regulated substance delivery.

Regulated Substance means:

(a) Any substance defined in § 101(14) of CERCLA. Regulated substance also includes waste oil, but does not include 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 p.s.i. absolute).

Regulated Substance Deliverer means any person who delivers or deposits regulated substance into a UST system. Regulated Substance Deliverer includes, but is not limited to, oil companies, jobbers, petroleum transportation companies, or other product delivery entities.

Regulated Substance Piping means piping that conveys regulated substance.

Release means anyspilling, leaking, emitting, discharging, escaping, leaching, or disposing from a UST system or UST component into the ground water, surface water, surface soil or subsurface soil.

Repair means any modification to the UST system or a UST component that is not routine maintenance including, but not limited to, modifications to the UST system or a UST component that are in response to a release or leakage.

Replace or Replacement means the removal of existing tank or piping or an existing UST component and installation of another tank, piping or UST component. If part of the piping is being replaced, "replace" or "replacement" means removal and installation of more than 50% of the piping connected to a single UST system.

Residential means buildings or dwellings used primarily for human habitation, but not industrial and commercial structures.

80.3 : continued

Secondary Containment means a release prevention system for a tank and/or piping where the tank and/or piping have an inner and outer barrier with a space in-between these two barriers for monitoring. Lining a tank or piping shall not constitute secondary containment.

Shear, Crash or Impact Valve means a listed, rigidly-anchored valve incorporating a fusible link or other thermally actuated device designed to close automatically in the event of a severe impact or exposure to fire.

Spill Bucket means a containment device used to catch, accumulate and prevent the release of regulated substance to the environment.

Statistical Inventory Reconciliation (SIR) means a process of evaluating the various sources of errors present in daily inventory records and capable of detecting a release or leakage from the UST system, including associated piping, of 0.20 gallons per hour with the probability of detection of 0.95 and probability of false alarm of 0.05 as determined by an independent testing laboratory using the U.S. Environmental Protection Agency's standardized test procedures at EPA/530/UST-90/007 or equivalent.

Tank means an underground structure that contains regulated substance. Tank shall not include any of the following:

(a) Any septic tank;
(b) Any pipeline facility, including gathering lines, which is regulated under:
    1. the Natural Gas Pipeline Safety Act of 1968;
    2. the Hazardous Liquid Pipeline Safety Act of 1979;
(c) Any surface impoundment, pit, pond, or lagoon;
(d) Any storm water or waste water collection system;
(e) Any flow through process tank;
(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.

Temporarily Out-of-service means the temporary closure of a UST system for not more than five years that occurs when the UST system has been prepared for temporary closure and is maintained during such temporary closure in accordance with 310 CMR 80.42(4) and the Owner informs the Department of the temporary closure in accordance with 310 CMR 80.42(2).

Third-party Inspector means an individual certified to conduct third-party inspections in accordance with 310 CMR 80.49(4).

Third-party Inspection Report means the report prepared by the Third-party Inspector after completion of the third-party inspection in accordance with 310 CMR 80.49(2).

Turbine Sump means an impermeable, fluid-tight basin installed below grade to allow access to piping, pumps, fittings and valves and to collect leakage of regulated substance to prevent its introduction into the environment.

UST Component means equipment serving the tank and piping (UST system), including, but not limited to, pumps, sumps, electrical devices, consoles, cathodic protection system, leak detection system, spill prevention equipment and overfill prevention equipmewnt.

Underground Storage Tank (UST) Facility or Facility means the property on which one or more UST systems, associated UST components, 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, that contains regulated substance and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground. Underground Storage Tank (UST) System shall not include any of the following tanks or any pipes connected to any of the following:

80.3 : continued

(a) Any septic tank;
(b) Any pipeline facility, including gathering lines, which is regulated under:
1. the Natural Gas Pipeline Safety Act of 1968;
2. the Hazardous Liquid Pipeline Safety Act of 1979; or
(c) Any surface impoundment, pit, pond, or lagoon;
(d) Any storm water or waste water collection system;
(e) Any flow through process tank;
(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.

UST Component means equipment serving the tank and piping (UST system), including, but not limited to, the pumps, sumps, electrical devices, consoles, cathodic protection system, leak detection system, spill prevention equipment and overfill prevention equipment.

UST Facility Compliance Date means the triennial date by which an Owner or Operator shall ensure that a third-party inspection is completed and the third-party inspection report is submitted to the Department, as further defined in 310 CMR 80.49.

Waste Oil means used or unused waste oil (or any mixture thereof) that is not otherwise hazardous pursuant to 310 CMR 30.120 through 30.136, except that used waste oil with a flash point greater than or equal to 100°F and less than 140°F (solely through use) remains subject to regulation as used waste oil under 310 CMR 30.000: *Hazardous Waste*.

80.4 : Applicability

(1) The requirements of 310 CMR 80.00 shall apply to:
(a) Owners and Operators of UST systems, except as provided in 310 CMR 80.04(5) through (13) which identifies certain UST systems that do not have to comply with all requirements in 310 CMR 80.00;
(b) If the UST system has a crash, shear or impact valve, the regulations apply to Owners and Operators of the UST system below the crash, shear or impact valve, except as provided in 310 CMR 80.04(5) through (13);
(c) Class A, B and C Operators;
(d) Third-party inspectors; and
(e) Any person required by 310 CMR 80.00 to certify compliance with 310 CMR 80.00.

(2) Whenever any provision in 310 CMR 80.00 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.

(3) Schedule of UST System and UST Component Upgrade Requirements. Owners and Operators of the following UST systems shall comply with the Schedule of Upgrades in Table A:
(a) Pressurized piping installed before May 28, 1999; and
(b) UST systems using a submersible pump that do not have a turbine sump.

Table A: Schedule of Upgrades

Type of UST System	Section(	Effective Date
Pressurized piping installed before May 28, 1999	Leak Detection Requirements for Automatic Line Leak Detectors at 310 CMR 80.19(4)(b)2.	January 2, 2016
UST systems using a submersible pump that do not have a turbine	Requirement for Sumps at 310 CMR 80.20 and 80.27	January 1, 2019 or tank top upgrade, whichever is earlier.

80.04: continued

(4) Financial Responsibility. The financial responsibility requirements at 310 CMR 80.51 through 80.63 shall apply to all Owners and Operators of UST systems except:

(a) As provided in 310 CMR 80.04(5) through (13); and

(b) State and Federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States government.

Owners and Operators shall have the burden of proof to demonstrate that they are not subject to 310 CMR 80.51 through 80.63.

(5) Owners and Operator of the following UST systems are exempt from all requirements of 310 CMR 80.00:

(a) UST systems holding hazardous wastes listed or identified under Subtitle C of RCRA, M.G.L. c. 21C or 310 CMR 30.000: *Hazardous Waste*, except UST systems holding waste oil.

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

(c) UST systems that contain a *de minimus* concentration of regulated substance which means a concentration of regulated substance not exceeding the GW1 groundwater reportable concentrations in the Massachusetts Oil and Hazardous Materials List at 310 CMR 40.1600: *Massachusetts Oil and Hazardous Material List*. If a regulated substance is not listed at 310 CMR 40.1600: *Massachusetts Oil and Hazardous Material List*, the Owner and Operator shall demonstrate *de minimus* by demonstrating that the regulated substance does not display characteristics of ignitability, corrosivity, flammability and/or toxicity in order to be subject to this exemption. The Owner and Operator shall keep records of said demonstration in accordance with 310 CMR 80.36(7) until the Owner and Operator no longer claim the exemption.

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

(e) UST systems that are part of a storm water or wastewater treatment facility regulated under § 402 or 307(b) of the Federal Clean Water Act or the State Clean Water Act at M.G.L. c. 21, §§ 26 through 53, including, but not limited, to industrial wastewater holding tanks and oil water separators.

(6) Owners and Operators of the following UST systems shall be subject only to the requirements at 310 CMR 80.04(7):

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

(b) 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 part § 50, app. A.

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

(d) UST systems that are part of a storm water or wastewater treatment facility not regulated under § 402 or 307(b) of the Federal Clean Water Act or the State Clean Water Act at M.G.L. c. 21, §§ 26 through 53.

(7) Owners and Operators of UST systems at 310 CMR 80.04(6) shall comply with the following requirements:

(a) Prevent releases due to corrosion or structural failure;

(b) Be cathodically protected against corrosion in accordance with 310 CMR 80.22 and 80.29, be constructed of non-corrodible material, be steel clad with a non-corrodible material, or be designed in a manner to prevent the release or threatened release of any stored regulated substance; and

(c) Be constructed or lined with material that is compatible with the stored regulated substance.

(8) Owners and Operators of consumptive use tanks of 1100 gallons or less shall be subject

only to the following requirements:

(a) Tank Specifications at 310 CMR 80.17(3), if installed on or after March 21, 2008; and

(b) Response to a Release requirements at 310 CMR 80.38.

80.4 : continued

(9) Owners and Operators of consumptive use tanks having a capacity of more than 1100 gallons installed on and after January 1, 1989 are subject only to the following requirements:

(a) Installation Requirements at 310 CMR 80.16;

(b) Tank Specifications at 310 CMR 80.17(1);

(c) Specifications for Regulated Substance Piping at 310 CMR 80.18;

(d) Leak Detection Requirements at 310 CMR 80.19(3)(a) and 80.26;

(e) Sump Requirements at 310 CMR 80.20 and 80.27;

(f) Spill Bucket and Overfill Prevention Requirements at 310 CMR 80.21 and 80.28;

(g) Corrosion Protection Requirements, if applicable, at 310 CMR 80.22 and 80.29;

(h) Emergency Response Requirements at 310 CMR 80.25;

(i) Compatibility Requirements at 310 CMR 80.30;

(j) Repair and Replacement Requirements at 310 CMR 80.33;

(k) Leakage and Release: Response, Reporting and Remediation requirements at 310 CMR 80.38 through 80.40; and

(l) Closure Requirement at 310 CMR 80.41 through 80.47.

(10) Owners and Operators of consumptive use tanks having a capacity of more than 1100 gallons installed before January 1, 1989 are subject only to the following requirements:

(a) Installation Requirements at 310 CMR 80.16;

(b) Tank Specifications at 310 CMR 80.17(1);

(c) Specifications for Regulated Substance Piping at 310 CMR 80.18;

(d) Sump Requirements at 310 CMR 80.20 and 80.27;

(e) Spill Bucket and Overfill Prevention Requirements at 310 CMR 80.21 and 80.28;

(f) Emergency Response Requirements at 310 CMR 80.25;

(g) Compatibility Requirements at 310 CMR 80.30;

(h) Repair and Replacement Requirements at 310 CMR 80.33;

(i) Leakage and Release: Response, Reporting and Remediation requirements at 310 CMR 80.38 through 80.40; and

(j) Closure Requirement at 310 CMR 80.41 through 80.47.

(11) Owners and Operators of farm or residential tanks having a capacity of 1100 gallons or less used exclusively for the storage of motor fuel are subject to only the following requirements:

(a) Tank Specifications at 310 CMR 80.17(1); and

(b) Response to a Release requirements at 310 CMR 80.38.

(12) Owners and Operators of UST systems used solely for emergency spill or overflow containment are subject to only the following requirements:

(a) Tank standards at 310 CMR 80.17(1);

(b) Registration requirements at 310 CMR 80.23(1);

(c) Response to a Release requirements at 310 CMR 80.38; and

(d) Remove all regulated substance within 72 hours of the introduction of a regulated substance.

(13) Owners and Operators of UST systems specifically used to supply fuel to emergency generators or to emergency engine driven pumps are subject to all requirements of 310 CMR
80.00 except the Inventory Monitoring requirements at 310 CMR 80.31.

80.5 : Rules of Construction

(1) No provision of 310 CMR 80.00 shall be construed to limit the Department's authority to take or arrange for, or to require any person to perform, any response action authorized by
M.G.L. c. 21C or 21E which the Department deems necessary to protect public health, safety or the environment.

(2) The provisions of 310 CMR 80.00 are severable, and if any provision herein or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions hereof or applications thereof which can be given effect without the

invalid provision or application.

(3) No provision of 310 CMR 80.00 shall be construed to relieve any person of the necessity of complying with all applicable federal, state or local laws.

80.6 : Computation of Time

Unless otherwise specifically provided by law, 310 CMR 80.00, or any determination issued pursuant to 310 CMR 80.00, any time period prescribed or referred to in 310 CMR 80.00, or in any determination issued pursuant to 310 CMR 80.00, shall begin with the first day following the act which initiates the running of the time period, and shall include every calendar day, including the last day of the time period so computed. If the last day is a Saturday, Sunday, legal holiday, or any other day in which the offices of the Department are closed, the deadline shall run until the end of the next business day. If the time period prescribed or referred to is less than seven days, only days when the offices of the Department are open shall be included in the computation. If the time period is prescribed in hours, the computation is the exact number of hours from the start of the deadline without regard to whether the Department is open, unless the deadline requires delivery of information or documentation to the Department, in which case it is on the next business day after the running of the deadline if that deadline runs on a day when the Department is closed.

80.7 : Accurate and Timely Submittals to the Department and Record Keeping

(1) No person shall make any false, inaccurate, incomplete or misleading statement in any application, record, report, plan, log or statement which that person submits, or is required to submit, to the Department pursuant to M.G.L. c. 21O, 310 CMR 80.00, or any permit, order, certification or approval issued by the Department.

(2) Any application, record, report, plan or statement which any person is required to submit to the Department shall be submitted within the time period presented in M.G.L. c. 21O, 310 CMR 80.00, or any order issued by the Department, unless otherwise specified by the Department.

(3) No person shall make any false, inaccurate, incomplete or misleading statement in any application, record, report, plan, log or statement which that person keeps, or is required to keep, by the Department pursuant to M.G.L. c. 21O, 310 CMR 80.00, or by any permit, order, certification or approval issued by the Department.

80.8 : Accurate and Complete Record Keeping

Any record keeping which any person is required to perform shall be promptly, fully, and accurately performed and shall otherwise be in compliance with 310 CMR 80.00, and any permit, order, certification or approval issued by the Department.

80.9 : Accurate Monitoring

No person shall falsify, tamper with, or render inaccurate any monitoring device or method which any person maintains, or which is required to be maintained pursuant to M.G.L. c. 21O or 310 CMR 80.00. Any monitoring which any person is required to perform shall be promptly, fully and accurately performed and shall otherwise be in compliance with M.G.L. c. 21O, 310 CMR 80.00, or any permit, order, certification or approval issued by the Department.

80.10: Duty to Provide Information

For any of the purpose set forth in M.G.L. c. 21O or 310 CMR 80.00, any Owner or Operator of a UST system shall upon reasonable request of the Department furnish information relating to UST systems and UST components conduct monitoring or testing, and permit the Department to have access to, and to copy all records relating to, such UST systems and UST components within the time specified in the Department's request.

80.11: Submittals to the Department

(1) Any person signing a document or form, required by 310 CMR 80.00 to be signed by the Owner or Operator, shall be signed by:

(a) If a sole proprietorship, the sole proprietor;
(b) If a partnership, a general partner with the authority to bind the partnership;

80.11: continued

(c) If a trust, a trustee or any other natural person authorized:
1. to enter into contracts regarding the trust property;
2 to bind the trust; or
3. to encumber or dispose of the trust property;

(d) If a limited liability company, a person authorized pursuant to M.G.L. c. 156C, § 24 and the limited liability company's operating agreement to bind the company and all the members;

(e) If a corporation or a non-profit corporation, a president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function who has been duly authorized to bind the corporation pursuant to a corporate vote, or an employee of the corporation who has been duly authorized to bind the corporation pursuant to a corporate vote;

(f) If a municipality or other public agency, a principal executive officer or ranking elected official who is empowered to enter into contracts on behalf of the municipality or public agency.

(2) Unless otherwise required by law or 310 CMR 80.00, any person signing a document pursuant to 310 CMR 80.00, or when providing any other information ordered or requested by the Department in writing pursuant to 310 CMR 80.00, shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on myinquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment."

80.12: Presumption of Irreparable Harm

Pursuant to M.G.L. c. 21O, § 8, any violation of any provision of M.G.L. c. 21O or 310 CMR 80.00 or of any order, permit, or approval adopted or issued thereunder shall be presumed to constitute irreparable harm to public health, safety and welfare, and to the environment. Such presumption may be rebutted by the introduction of competent evidence.

80.13: Department Access to UST Facilities and Records

(1) Reasonable Access.

(a) For purposes of implementing M.G.L. c. 21O and 310 CMR 80.00, personnel and/or representatives of the Department may, upon presentation of credentials, enter property containing or suspected of containing UST systems in order to:
1. Inspect or obtain samples from any UST system;
2. Conduct monitoring or testing of the tanks, associated equipment, contents of the tank or surrounding soils, air, surface water or ground water; and
3. Have access to, and copy all records, relating to such tanks.

(b) Said inspections shall be conducted during normal business hours or at other reasonable times, with or without prior notice, provided that personnel or authorized representatives of the Department may enter a UST facility, at any time, if emergency conditions require immediate entry or to protect public health, safety or the environment.

(c) For announced inspections, the Department will notify the UST facility no less than 48 hours before the announced inspection.

(2) Duty to Comply.

(a) The Owner and Operator shall cooperate and assist Department personnel or authorized representative and in no way restrict, impede, or delay an inspection or any request for information by personnel or authorized representatives of the Department where such inspection or request is made pursuant to a reasonable request in accordance with 310 CMR 80.13(1), or in accordance with the conditions of any authorization, determination, modification, permit, or other approval, or pursuant to the terms of any order or other enforcement document, or as otherwise authorized by law.

(b) For announced inspections, the Owner or Operator shall provide the necessary personnel in order to provide access to UST records, systems and facilities including, but not limited to, the following:

80.13: continued

1. Regulated substance fill port/spill bucket;
2. Automatic tank gauge port and console;
3. Turbine and intermediate sumps;
4. Underground piping/other access ports;
5. Dispenser cabinet/dispenser sump;
6. Audible and visual alarm equipment;
7. Overfill prevention equipment; and
8. Any other component of the UST System if the Department informs the Owner or Operator it needs access to the component at the time the inspection is announced, and excludes any UST system or UST component that would only be visible for inspection if they were excavated.

(3) Warrants. If the Department is denied full and complete access to the UST facility or requested information, or if after reasonable efforts, the Department cannot locate the Owner or Operator, the Department may seek, from a court, judge, justice or magistrate, a warrant authorizing personnel or authorized representatives of the Department to conduct a reasonable search of the UST facility or property. 310 CMR 80.13 shall not preclude the Department from gaining access through other legal means, including, but not limited to, a court order or injunctive relief.

DESIGN, CONSTRUCTION AND INSTALLATION REQUIREMENTS

80.14: General Requirements

Owners and Operators shall comply with all general and specific design, construction and installation requirements in 310 CMR 80.14 through 80.22, as applicable.

80.15: General Prohibitions

(1) All single-walled steel tanks in-service and temporarily out-of-service shall be permanently closed and removed from the ground or permanently closed in-place in compliance with 310 CMR 80.43 by August 7, 2017, except for the following tanks:

(a) Consumptive use tanks; and

(b) Tanks that were relined prior to August 8, 2007 in accordance with API 1631, 1983 Edition and the Owner or Operator has the following:

1. A permit and approval that was issued by the Head of the Fire Department for such relining; and
2. A current, legally valid warranty for said relining.

80.16: Installation Requirements

(1) No UST system shall be installed except by a person who has been certified to install that type of UST system in writing by the UST system manufacturer. The installation shall include, but shall not be limited to, compliance with the manufacturer's specifications and all items on the manufacturer's checklist.

(a) The installer shall certify that the UST system was installed in accordance with the manufacturer's specifications and that the installer complied with all items on the manufacturer's checklist.

(b) The Owner or Operator shall keep a copy of the certifications in 310 CMR 80.16(1) and 80.16(1)(a), manufacturer's specifications and checklist in accordance with 310 CMR 80.36(5).

(2) The installation of all UST systems, including anchoring of the tank, shall be carried out in accordance with the manufacturer's specifications, listed engineering practices, and the provisions of 310 CMR 80.14 through 80.22.

(3) Any damage to the exterior of a tank or its coating shall be repaired before the tank is covered.

80.16: continued

(4) After installation, backfilling and surfacing to grade, but prior to putting regulated substance into the tank, each tank shall pass a tightness test pursuant to 310 CMR 80.32.

(5) After installation, backfilling and surfacing to grade, but prior to putting regulated substance into the tank, piping shall pass a tightness test pursuant to 310 CMR 80.32.

(6) All UST systems shall be inspected by the person, who prepares the drawing or as-built plans in accordance with 310 CMR 80.16(7), or their designated representative, prior to being backfilled, to ensure the UST system is installed in accordance with 310 CMR 80.14 through 80.22.

If the person who prepares the drawing or as-built plans, or their designated representative, determines the UST system is not installed in accordance with 310 CMR 80.14 through 80.22, the UST system shall not be backfilled until the Owner or Operator of the UST system complies with all requirements at 310 CMR 80.14 through 80.22.

(7) The Owner or Operator shall maintain, until the UST system is removed or permanently closed in accordance with 310 CMR 80.43(2) or (3), a scaled drawing or set of as-built plans prepared by the installer who installed the UST system or a registered professional engineer, of all UST systems installed on and after January 2, 2015. The scaled drawing or as-built plans shall include, but not be limited to:

(a) A locus plan or location map showing the location of the UST facility and the GIS coordinates of the UST system(s). The plan or map shall include, but not be limited to, the location of any public well, private well, if readily ascertainable, and any body of surface water within 500 feet of the UST facility. A drinking water well shall be clearly marked on the plan or map.

(b) A site plan of the UST facility, including, but not limited to, the location of each UST system and all buildings.

(c) UST system details, including but not limited to, schematics of the tanks, piping and turbine, intermediate and dispenser sumps, elevations of each tank and related piping below the final surface grade and a materials list.

(d) The scaled drawing or as-built plans shall include a signed statement by the installer or registered professional engineer who prepared the scaled drawing or as-built plans that the UST system was installed in accordance with 310 CMR 80.00, the manufacturer's specifications and the manufacturer's checklist.

(8) The Owner shall notify the Department within 30 days of the initial introduction of regulated substance into a UST system on a form specified by the Department, in accordance with 310 CMR 80.23(1).

(9) If the manufacturer's specifications do not specify the type of backfill material, the Owner or Operator shall comply with one of the following:

(a) API Recommended Practice 1615, 6th Edition, April 2011, *Installation of Underground Petroleum Storage Systems*; or

(b) PEI Recommended Practice 100-11, 2011, *Recommended Practices for Installation of Underground Liquid Storage Systems*.

(10) At any fueling facilities where tanks are at an elevation which produces a gravity head on the dispensing unit, the tank outlet shall be equipped with a device, such as a solenoid valve, positioned adjacent to, and downstream from, the outlet of the tank that is installed and adjusted so that liquid cannot flow by gravity from the tank in case of piping or hose failure when the dispenser is not in use.

(11) Piping shall be installed in a trench between the tank area and the pump island. Underground vent lines shall be installed in a trench. If the manufacturer's specifications specify a different standard for installing piping and vent lines, the Owner and Operator may comply with the manufacturer's specification in *lieu* of 310 CMR 80.16(11). The Owner or Operator shall keep records of the standard in accordance with 310 CMR 80.36(5).

80.16: continued

(12) A minimum six-inch-deep bed of well-compacted noncorrosive material such as clean washed sand or gravel shall be placed in a trench before the piping is installed, unless directed by the manufacturer's specifications. All trenches shall be wide and deep enough to permit at least six inches of noncorrosive backfill material surrounding all lines, unless directed by the manufacturer's specifications.

(13) All piping shall lead from the tops of tanks, and the tops of all tanks shall be below the level of the lowest horizontal pipe used in the connection therein except where the design specifically prevents a possible siphoning condition.

(14) All pipes used for the conveyance of flammable liquid shall decline to tanks without traps or pockets, and shall be protected against damage. Intermediate sumps installed to allow piping to decline to tanks shall not be considered a trap or pocket provided the intermediate sump is monitored for leakage and is accessible for repairs and inspections. Piping drops from submerged pumps to allow piping decline to the tank shall not be considered a trap. Siphon lines shall be exempt from 310 CMR 80.16(14).

(15) A double elbow swing joint or flexible connector listed for underground applications shall be installed at all locations where piping changes direction from horizontal to vertical or from vertical to horizontal. If the manufacturer's specifications specifya different standard, the Owner and Operator may comply with the manufacturer's specification in *lieu* of 310 CMR 80.16(15). The Owner or Operator shall keep records of the standard in accordance with 310 CMR 80.36(5).

(16) Pressurized systems shall be designed or equipped so that no part of the system will be subjected to pressures above its allowable working pressure in accordance with the manufacturer's specifications.

(17) A permanent dewatering well for the purpose of dewatering the tank grave in order to conduct repairs of the UST system may be installed if the well is seated in the tank grave and the well seals are designed and constructed to prevent migration of fluids from the ground surface into the borehole.

(a) The following seals are all required and shall be designed and constructed as follows:

1. Annular Seals.

   a. Annular seals shall be placed in the annular space between the well casing and the borehole wall and above the divider seal.

   b. Annular seals shall consist of a low permeability material that will serve to inhibit the vertical movement of fluids within the annular space.

   c. An annular seal shall be composed of one or a combination of the following sealants: neat cement, bentonite/cement slurries, or equivalent sealing agents.

2. Divider Seals.

   a. Divider seals shall consist of a layer of bentonite slurry or pellets designed to prevent the annular seal materials from plugging up the screened area of the well.

   b. Divider seals shall be placed above the material surrounding the well screen and below the annular seal.

3. Surface (Apron) Seal.

   a. A surface seal around the top of the well is required even if the annular seal is carried to the surface.

   b. A surface seal shall be concrete.

   c. A surface seal shall be shaped so that surface water flows away from the well casing.

   d. Based on site conditions, the surface seal shall extend, at a minimum, to the bottom of the tank pad, and in no event less than one foot below grade to prevent frost-heaving of the apron.

(b) Dewatering wells and seals shall be maintained so as to prevent storm water and/or regulated substances from entering the subsurface as long as the dewatering well is in place.

(18) The Owner or Operator shall keep a copy of the installer's certifications, manufacturer's specifications and checklist, records of all testing results and inspections conducted during the installation and the accurate drawing or as-built plans in accordance with 310 CMR 80.36(5).

80.17: Specifications for Tanks

(1) Tanks, except consumptive use tanks of 1100 gallons or less, that are installed on and after January 1, 1989 shall be one of the following:

(a) Listed double-walled cathodically protected metal tanks;

(b) Listed double-walled fiberglass reinforced plastic tanks;

(c) Listed double-walled composite tanks;

(d) Listed double-walled jacketed steel tanks; or

(e) Listed tanks that are no less protective of human health and the environment than 310 CMR 80.17(1)(a) through (d), if the following requirements are met:

1. The Owner shall submit an application to the Department for approval demonstrating that the tank is equal to or more protective of human health and the environment than 310 CMR 80.17(1)(a) through (d). This demonstration shall include, but is not limited to, technical information that the tank is noncorrosive or corrosion resistant, and meets or exceeds the performance standards in 310 CMR 80.17(1)(a) through (d).

2. The Department, at its sole discretion, shall determine whether the Owner has made the demonstration required in 310 CMR 80.17(1)(e)1.

3. The Owner shall not install the tank unless and until it receives written approval from the Department.

(2) Tanks that are installed or that become subject to 310 CMR 80.00, on and after January 1, 1989 shall be equipped with a metallic or nonmetallic striker plate attached to the bottom of the tank at each opening. Such striker plate shall be at least 12" x 12" in area and at least ¼" thick.

(3) Consumptive use tanks of 1100 gallons or less that are installed on and after March 21, 2008 shall be one of the following:

(a) Listed double-walled fiberglass reinforced plastic using materials compatible with fuel oil and equipped with continuous interstitial monitoring.

(b) Listed double-walled metal tank with cathodic protection or bonded fiberglass coating and equipped with continuous interstitial monitoring.

80.18: Specifications for Regulated Substance Piping

(1) UST systems that contain regulated substance piping shall be installed with one of the following piping systems:

(a) Pressurized piping system; or

(b) European suction system; or

(c) Non-European suction system.

(2) In addition to complying with 310 CMR 80.18(1), regulated substance piping installed in UST systems between January 1, 1989 and January 2, 2015, shall meet the following requirements:

(a) Regulated substance piping shall be constructed of:

1. A non-corrodible material; or

2. Cathodically protected metal, including copper if the copper is adequately protected against physical damage and is secondarily contained.

(b) Regulated substance piping, except European suction systems and siphon lines between tanks, shall be installed with secondary containment which may include, but is not limited to, impervious liners if installed prior to January 2, 2015 or double-walled piping.

(3) All regulated substance piping installed after January 2, 2015 shall be:

(a) double-walled, except European suction systems and siphon lines between tanks;

(b) product compatible; and

(c) constructed of:

1. a non-corrodible material; or
2. cathodically protected metal, including copper if the copper is adequately protected against physical damage and is secondarily contained.

80.19: Leak Detection

(1) Owners and Operators shall equip UST systems with leak detection equipment.

(2) The Owner or Operator shall install, calibrate, operate and maintain all leak detection equipment in accordance with 310 CMR 80.19 and 80.26, and the manufacturer's specifications.

(3) Requirements for Tanks.

(a) Tanks (except tanks used to supply fuel to emergency generator engines and emergency engine driven pumps) installed on or after January 1, 1989, and emergency generator tanks and emergency engine driven pumps installed on or after January 2, 2015, shall be equipped with a system that continuously monitors interstitial space.

1. The interstitial monitors shall be installed and operated in accordance with the manufacturers' specifications.
2. The system shall comply with 310 CMR 80.26(3).
3. The interstitial monitoring shall detect leakage through the inner wall of any tank.
4. For UST systems using continuous vacuum, pressure, or hydrostatic methods (including brine systems) of interstitial monitoring, the method shall be capable of detecting a breach in the inner and outer walls of the tank.

(b) Tanks (except tanks used to supply fuel to emergency generator tanks and emergency engine driven pumps) installed before January 1, 1989 shall be equipped with at least one of the following leak detection methods:

1. A system that continuously monitors interstitial space.
   a. The sensors shall be installed in accordance with the manufacturers' specifications.
   b. The system shall comply with 310 CMR 80.26(3).
   c. The interstitial monitoring shall detect leakage through the inner wall of any tank.
2. An in-tank monitoring system that is used to test the tank at least once a month over the continuous period of time prescribed by the manufacturer's specifications to determine if there is a release or leakage. If the manufacturer's specifications do not prescribe a continuous period of time, the continuous period of time shall be six hours. The system shall be capable of detecting a release or leakage of 0.20 gallons per hour with the probability of detection of 0.95 and a probability of false alarm of 0.05 as determined byan independent testing laboratoryusing the U.S. Environmental Protection Agency Standard Test Procedures for Evaluating Leak Detection Methods (EPA/530/UST-90/006) or other equivalent test procedures and complies with 310 CMR 80.26(4).
3. A continuous in-tank monitoring system installed and operated in accordance with the manufacturers' specifications that is capable of detecting a release or leakage of 0.20 gallons per hour with the probability of detection of 0.95 and a probability of false alarm of 0.05 as determined by an independent testing laboratory using the U.S. Environmental Protection Agency Standard Test Procedures for Evaluating Leak Detection Methods (EPA/530/UST-90/006) or other equivalent test procedures and complies with 310 CMR 80.26(5).
4. An in-tank monitoring system installed, operated and maintained by a qualified person with inventory data analysis conducted by a trained statistical inventory reconciliation (SIR) vendor. The SIR testing or monitoring methods shall meet the following requirements:
   a. Report a quantitative result with a calculated leak rate;
   b. Be capable of detecting a release or leakage of 0.20 gallons per hour with the probability of detection of 0.95 and a probability of false alarm of 0.05 as determined by an independent testing laboratory using the U.S. Environmental Protection Agency Standard Test Procedures for Evaluating Leak Detection Methods (EPA/530/UST-90/006) or other equivalent test procedures;
   c. Use a threshold that does not exceed ½ the minimum detectible leak rate; and
   d. Comply with U.S. Environmental Protection Agency Standard Test Procedures

for Evaluating Leak Detection Methods (EPA/530/UST-90/007) or other equivalent test procedures and with 310 CMR 80.26(6).

5. Monitoring for vapors in the soil through the use of a continuous monitor or monthly monitoring device in accordance with 40 CFR 280.43(e) with the following provision:

80.19: continued

Effective January 2, 2017, monitoring for vapors in the soil shall be prohibited from being used to satisfy the leak detection requirement in 310 CMR 80.19(1) and the Owner or Operator shall have in place an operating leak detection system that satisfies the requirements of 310 CMR 80.19(3)(b)1., 2., 3. or 4.

(c) Owners and Operators of field-constructed tanks with a capacity greater than 50,000 gallons may use one of the following methods of leak detection for each tank to satisfy the requirements of 310 CMR 80.19(1):

1. Conduct an annual bulk tank tightness test that can detect a release or leakage at 0.5 gallon per hour;

2. Use an in-tank monitor to perform leak detection at least every 30 days that can detect a release or leakage of less than or equal to one gallon per hour. This method shall be combined with a bulk tank tightness test that can detect a release or leakage of 0.2 gallon per hour and be performed at least every three years; or

3. Use an in-tank monitor to perform leak detection at least every 30 days that can detect a release or leakage of less than or equal to two gallons per hour. This method shall be combined with a bulk tank tightness test that can detect a release or leakage of 0.2 gallon per hour and be performed at least everytwo years.

(d) Tanks used to supply fuel to emergency generator engines or emergency engine driven pumps installed before January 2, 2015 shall comply with at least one of the following leak detection methods:

1. Leak detection requirements at 310 CMR 80.19(3)(b)1., 2. 3. or 4.;

2. If the tank has a capacity of 1000 gallons or less, weekly tank gauging in accordance with 310 CMR 80.26(7); or

3. If the tank has a capacity of more than 1000 gallons, monthly tank gauging in accordance with 310 CMR 80.26(8), and conduct an annual tightness test in accordance with 310 CMR 80.32.

(4) Requirements for Piping.

(a) UST systems installed on or after May 28, 1999 shall have the following requirements for regulated substance piping, except European suction systems and siphon lines between tanks:

1. All regulated substance piping shall have a system that continuously monitors interstitial space.

a. The sensors shall be installed in accordance with the manufacturers' specifications.

b. The system shall comply with 310 CMR 80.26(3).

c. The sampling or testing method shall detect leakage through the inner wall in any portion of the piping that routinely contains product.

2. In addition to complying with 310 CMR 80.19(4)(a)1., pressurized piping systems shall be equipped with an automatic line leak detector that accurately detects a release or leakage of three gallons per hour at ten p.s.i. in line pressure within one hour with the probability of detection of 0.95 and probability of false alarm of 0.05.

3. European suction systems and siphon lines between tanks are not required to have leak detection.

(b) UST Systems installed between January 1, 1989 and May 28, 1999 shall have the following requirements for regulated substance piping, except European suction systems and siphon lines between tanks:

1. Owners or Operators of all regulated substance piping shall implement one of the following methods of leak detection:

a. A system that continuously monitors interstitial space in accordance with 310 CMR 80.19(4)(a)1.; or

b. Quarterly visual inspections of secondary containment ports and conduct of an annual tightness test of the product piping line in accordance with 310 CMR 80.32; or

c. An in-tank monitoring system that is maintained by a qualified person with inventory data analysis conducted by a qualified statistical inventory reconciliation (SIR) vendor. The SIR testing or monitoring methods shall:

i. Report a quantitative result with a calculated leak rate;

80.19: continued

ii. Be capable of detecting a release or leakage of 0.20 gallons per hour with the probability of detection of 0.95 and a probability of false alarm of 0.05 as determined by an independent testing laboratory using the U.S. Environmental Protection Agency Standard Test Procedures for Evaluating Leak Detection Methods (EPA/530/UST-90/006) or other equivalent test procedures;

iii. Use a threshold that does not exceed ½ the minimum detectible leak rate; and

iv. Comply with U.S. Environmental Protection Agency Standard Test Procedures for Evaluating Leak Detection Methods (EPA/530/UST-90/007) or other equivalent test procedures and with 310 CMR 80.26(6).

2. In addition to complying with 310 CMR 80.19(4)(b)1., pressurized piping systems shall be equipped with an automatic line leak detector that accurately detects a release or leakage of three gallons per hour at ten p.s.i. in line pressure within one hour with the probability of detection of 0.95 and probability of false alarm of 0.05.

3. European suction systems are not required to have leak detection.

(c) UST Systems installed before January 1, 1989 shall have the following requirements for regulated substance piping, except European suction systems and siphon lines between tanks:

1. Owners or Operators of all regulated substance piping shall implement one of the following methods of leak detection:

a. A system that continuously monitors interstitial space in accordance with 310 CMR 80.19(4)(a)1.; or

b. Quarterly visual inspections of secondary containment ports and conduct an annual tightness test of the product piping line in accordance with 310 CMR 80.32; or

c. An in-tank monitoring system that is maintained by a qualified person with inventory data analysis conducted by a trained statistical inventory reconciliation (SIR) vendor. The SIR testing or monitoring methods shall:

i. Report a quantitative result with a calculated leak rate;

ii. Be capable of detecting a release or leakage of 0.20 gallons per hour with the probability of detection of 0.95 and a probability of false alarm of 0.05 as determined by an independent testing laboratory using the U.S. Environmental Protection Agency Standard Test Procedures for Evaluating Leak Detection Methods (EPA/530/UST-90/006) or other equivalent test procedures;

iii. Use a threshold that does not exceed one-half the minimum detectible leak rate; and

iv. Comply with U.S. Environmental Protection Agency Standard Test Procedures for Evaluating Leak Detection Methods (EPA/530/UST-90/007) or other equivalent test procedures and with 310 CMR 80.26(6).

d. For single-walled pressurized piping systems, conduct an annual tightness test in accordance with 310 CMR 80.32; or

e. For Non-European suction systems that do not have secondary containment, conduct a tightness test every three years in accordance with 310 CMR 80.32.

2. In addition to complying with 310 CMR 80.19(4)(b)1., pressurized piping systems shall be equipped with an automatic line leak detector that accurately detects a release or leakage of three gallons per hour at ten p.s.i. in line pressure within one hour with the probability of detection of 0.95 and probability of false alarm of 0.05.

3. European suction systems are not required to have leak detection.

80.20: Requirements for Turbine, Intermediate and Dispenser Sumps

(1) Regulated substance dispensers installed, repaired or replaced on or after March 21, 2008 shall be equipped with a dispenser sump that shall be continuouslymonitored for liquids utilizing a dispenser sump sensor(s).

310 CMR 80.20(1) shall not apply in situations where only the product dispenser is repaired or replaced due to damage or malfunction, but shall apply to any replacement of both the product

dispenser and the piping used to connect the product dispenser to the tank.

(2) Tanks utilizing a submersible pump, when the pump was installed on or after March 21, 2008, shall be equipped with a turbine sump. All turbine sumps, including intermediate sumps, shall be continuously monitored for liquids utilizing a sump sensor(s).

80.20: continued

(3) Tanks using a submersible pump that do not have a turbine sump, shall be upgraded with a turbine sump by January 1, 2019 or when the tank top is upgraded, whichever is earlier, or that tank shall be removed or permanently closed in accordance with 310 CMR 80.43(2) or (3).

(4) Turbine, intermediate and dispenser sumps shall pass a tightness test at installation to ensure the sump is liquid tight by using vacuum, pressure, or liquid testing. The standard for failing is **C** inch or greater loss of water within one hour (which is equal to a release/leakage rate of 0.05 gallons per hour in a typical 12-inch diameter basin). The Owner or Operator shall keep records of this test in accordance with 310 CMR 80.36(1).

(5) Turbine sump manhole covers installed on and after the January 2, 2015 shall be designed and installed with a final grade that channels storm water away from the turbine sump cover.

(6) Turbine, intermediate and dispenser sumps shall be constructed so that they are accessible for repairs and inspections.

80.21: Requirements for Spill Buckets and Overfill Prevention Equipment

(1) UST systems shall be equipped with a spill bucket.

(a) Spill buckets, including replacement spill buckets, installed on or after January 2, 2015 shall have a minimum capacity of five gallons, unless it is not physically possible to replace a three gallon spill bucket with a five gallon spill bucket. "Not physically possible" means that the area where the three gallon spill bucket is installed cannot be made to accommodate a five gallon spill bucket by any physical means, including, but not limited to, digging or jack hammering.

1. If it is not physically possible to replace a three gallon spill bucket with a five gallon spill bucket, the Owner or Operator shall certify to the Department that it is not physically possible in a letter signed in accordance with 310 CMR 80.11.
2. If it is not physically possible to replace a three gallon spill bucket with a five gallon spill bucket, the Owner or Operator shall install a spill bucket no smaller than three gallons.

(b) Spill buckets installed before January 2, 2015 shall have a minimum capacity of three gallons.

(c) All spill buckets shall pass a tightness test at installation to ensure the spill bucket is liquid tight by using vacuum, pressure, or liquid testing. The standard for declaring a failure is **C** inch or greater loss of water within one hour (which is equal to a release/leakage rate of 0.05 gallons per hour in a typical 12-inch diameter basin). The Owner or Operator shall keep records of this test in accordance with 310 CMR 80.36(1).

(2) UST systems shall have an overfill prevention device that is designed to allow a tank tightness test and installed in accordance with the manufacturer's specifications.

(a) On or after January 2, 2015, new or replacement ball float valves are prohibited from being used as the primary overfill prevention device. Owners and Operators may continue to use ball float valves as a secondary overfill prevention device, unless the ball float valve interferes with the operation of the primary overfill prevention device. Ball float valves installed prior to January 2, 2015 may be used as the primary overfill prevention device until the ball float valve is replaced.

(b) All UST systems shall be equipped with one of the following:

1. An automatic shut off valve, float or flapper that shall automatically and completely shut off flow into the tank when the tank is no more than 95% full.
2. A device which shall sufficiently alert the Operator and regulated substance

deliverer when the tank is at a maximum of 90% full by triggering a high-level alarm.

a. All high level alarms installed on and after January 2, 2015 shall be visible and audible.

b. All high-level alarms shall be clearly labeled as a tank overfill alarm.

3. A ball float valve which shall alert the regulated substance deliverer by restricting the flow into the tank 30 minutes prior to overfilling, in accordance with 310 CMR 80.21(2)(a).

80.22: Requirements for Corrosion Protection

(1) All UST systems shall be protected from corrosion.

(2) Metal components of a UST system and UST components, excluding manhole covers, that are subject to corrosion and are in contact with the ground shall have continuous cathodic protection.

Riser and fill pipes may be coated, taped or clad with non-corrosive materials, such as fiberglass to comply with 310 CMR 80.22(2).

(3) If a tank or regulated substance piping is manufactured with cathodic protection, it shall comply with a listed standard.

(4) A field constructed cathodic protection system shall be designed by a corrosion expert.

(a) The cathodic protection system design plans, applications, surveys, drawings, test data and results, shall be reviewed and approved by a corrosion expert and bear the full name, signature, address, certification number and seal of the corrosion expert.

(b) The installation and repair of any cathodic protection system shall be completed under the direction of a corrosion expert. Cathodic protection systems shall be designed and installed in accordance with a listed standard and the manufacturer's specifications.

(c) For field-constructed cathodic protection systems installed on and after January 2, 2015, the Owner or Operator shall have as built, scaled plans of the field-constructed cathodic protection system. Said plans shall be reviewed and approved by a corrosion expert and shall bear the full name, signature, address, certification number and seal of the corrosion expert and shall be retained in accordance with 310 CMR 80.36(4).

(5) Within six months of installation, a cathodic protection system shall be tested by a cathodic protection tester in accordance with the following standards to determine that the UST system or UST component is protected against corrosion.

(a) NACE Standard Test Method: NACE Standard TM0101-2012, *Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Tank Systems*"; or

(b) NACE Standard Test Method: NACE Standard TM0497-2012, *Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems*".

(6) The cathodic protection system shall pass the applicable test(s) at 310 CMR 80.22(5). The Owner or Operator shall keep a record of the passed test(s) in accordance with 310 CMR 80.36(1).

If the cathodic protection system does not pass the test, the Owner or Operator shall comply with 310 CMR 80.29(5).

GENERAL OPERATING REQUIREMENTS

80.23: Requirements for Registration and Reporting

(1) Owners shall sign and submit to the Department, in a format specified by the Department, a registration for UST systems and UST facilities within 30 days of receiving regulated substance into the UST system. The Owner shall retain a copy of the registration in accordance with 310 CMR 80.36(3) until the UST system is removed or permanently closed in accordance with 310 CMR 80.43(2) or (3).

(a) The registration shall include, but not be limited to, the following categories of information:

1. Identity of and contact information for the Owner, Operator and Contact Person(s),

including, but not limited to, name, title, address, telephone numbers and email address;
2. Description of the UST system(s), including, but not limited to, the location, date of installation, size, uses of the UST system(s) and type of facility;
3. Description of UST components including, but not limited to, leak detection, corrosion prevention, spill bucket and overfill prevention;
4. Description of the financial responsibility mechanism(s), including, but not limited to, the type, amount, expiration date and issuer; and
5. Description of the UST records received from the previous Owner(s) and Operator(s).

80.23: continued

(b) Owners, or Operators if authorized by the Owner, shall update the registration if any information on the registration changes, and submit it to the Department within 30 days of the change.

(2) Owners, or Operators if authorized by the Owner, shall submit to the Department, in a format specified by the Department, notifications of the following including, but not limited to:
(a) A change in the product in accordance with 310 CMR 80.41(3):
1. Prior to the change, if the change is from a regulated substance to a non-regulated substance.
2. Within 30 days of the change, if the change is from a regulated substance to another regulated substance.
(b) Any UST system taken temporarily out-of-service, within 30 days of the change in status, in accordance with 310 CMR 80.42(2).
(c) Any temporarily out-of-service UST system brought back into service, within 30 days after being brought back into service, in accordance with 310 CMR 80.42(6).
(d) Any UST system removed, within 30 days of removal, in accordance with 310 CMR 80.43(2)(c).
(e) UST systems closed-in-place within 30 days of UST system being filled, in accordance with 310 CMR 80.43(3)(c).

(3) The Owner or Operator shall submit to the Department, in a format specified by the Department, information including, but not limited to:
(a) Third-party inspection reports in accordance with 310 CMR 80.49(2).
(b) Assessment reports in accordance with 310 CMR 80.41(4)(b) and 80.43(4).
(c) Source and cause of reportable releases in accordance with 310 CMR 80.40.
(d) Compliance certification in accordance with 310 CMR 80.34.

(4) Upon the sale of a UST system or UST facility, the Owner shall transfer as-built plans of UST systems, cathodic protection systems plans and specifications, and manufacturer's specifications, if they were required to be kept by the Owner, to the new Owner.

(5) Any person who sells a UST system intended to be used as a UST system shall notify the purchaser of such UST system of the registration obligations under 310 CMR 80.23.

80.24: General Requirements

(1) Owners and Operators shall comply with all general and specific operating requirements in 310 CMR 80.23 through 80.36, as applicable.

(2) The Owner or Operator shall activate and keep in working condition all electrical equipment, components and alarms for UST systems and UST components.

(3) The Owner or Operator shall respond to every UST system alarm that may indicate the presence of leakage or a release, and document the response to each of those alarms in a report or log which shall include the date and any corrective action taken. The Owner or Operator shall keep records of such alarms in accordance with 310 CMR 80.36(1).

(4) The Owner or Operator shall ensure that fill pipe covers of tanks are painted and maintained in accordance API Recommended Practice 1637, 3rd Edition, 2006, *Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline*

Dispensing Facilities and Distribution Terminals.

(5) If all regulated substance is removed from a UST system, the Owner or Operator shall take the UST system temporarily out-of-service in accordance with 310 CMR 80.42 or permanently close it in accordance with 310 CMR 80.43. If any regulated substance remains in a UST system, the UST system shall complywith all applicable requirements of 310 CMR 80.00, unless the amount of regulated substance in the UST systems meets the *de minimus* standard in 310 CMR 80.04(5)(c).

80.24: continued

(6) After January 2, 2015, an Owner or Operator shall not line or reline any tank to extend the operating life of the UST system.

80.25: Requirements for a UST System or UST Component Emergency Response

(1) The Owner or Operator shall post a sign at the UST facility indicating what steps to follow in the event of a UST system or UST component emergency, including, but not limited to, the name and phone number of the person or persons to contact in the event of an emergency.

(a) The sign shall be written in large print so that employees can clearly see it from at least ten feet away, in languages that are commonly spoken at the UST facility and be prominently displayed at various locations so all employees (at a minimum) can see it.

(b) The UST system or UST component emergency sign shall be updated when any information on the sign changes.

(2) The Owner or Operator shall develop, and update when necessary, a written procedure for how UST facility employees and contractors should respond in the event of a UST system or UST component emergency. The Owner or Operator shall keep the most recent copy of the written procedure in accordance with 310 CMR 80.36(3).

(a) The procedure shall include, but not be limited to, how to access the emergency shut-off for the tanks, how to locate the communication device and how to respond to alarms that indicate leakage or a release.

(b) The Owner or Operator shall inform all Class A, B and C Operators where the procedure is located and train Class A, B and C Operators on the emergency procedures.

80.26: Requirements for Leak Detection Systems

(1) The Owner or Operator shall equip UST systems with a leak detection system in accordance with manufacturer's specifications and 310 CMR 80.19.

(2) The Owner or Operator shall operate and maintain leak detection systems at all times and in accordance with manufacturer's specifications and 310 CMR 80.26(3) through (13), as applicable.

(3) Requirements for UST systems that continuously monitor interstitial space in a double-walled tank and/or double-walled piping as its primary leak detection system are as follows:

(a) Sensors shall continuously monitor interstitial space and be maintained in good working order and shall be operated to perform their original design function in accordance with the manufacturer's specifications.

(b) Interstitial space shall be free of solid material, water and regulated substance. Water in 310 CMR 80.26(3)(b) does not include brine or condensation that occurs in a properly operating UST system.

(c) If a release or leakage is indicated by alarm or otherwise, the Owner or Operator shall immediately commence an investigation to determine whether there may be a release or leakage.

1. The Owner or Operator shall conclude the investigation within 72 hours of the indication of release or leakage. If the Owner or Operator is unable to determine that there is not a release or leakage within 72 hours of the indication of release or leakage, he or she shall:

a. Conduct a tightness test of the suspected tank or piping in accordance with

310 CMR 80.32 within 72 hours after the conclusion of the investigation.

i. If the tank or piping fails a tightness test pursuant to 310 CMR 80.32, the Owner or Operator shall comply with 310 CMR 40.0300: *Notification of Releases and Threats of Release of Oil and Hazardous Materials; Identification and Listing of Oil and Hazardous Materials*, as applicable.

ii. If the tank and the piping pass a tightness test pursuant to 310 CMR 80.32, the tank and the piping are considered tight, and the requirements for tightness testing are satisfied.

2. If the investigation or the tightness test indicates leakage, the Owner or Operator shall comply with 310 CMR 80.39.

80.26: continued

(d) A system that continuously monitors interstitial space shall be tested annually to determine whether the leak detection system is working properly. The Owner or Operator shall keep records of such tests in accordance with 310 CMR 80.36(1).

(4) Requirements for those UST systems that use an in-tank monitoring system as its primary leak detection system are as follows:

(a) At least once each calendar month, the Owner or Operator shall conduct a test using the in-tank monitor over a continuous period of time as prescribed by the manufacturer's specifications, during which no regulated substance shall be delivered to or taken from the tank, in order to determine whether there is a release or leakage of regulated substance. If the manufacturer's specifications do not prescribe a continuous period of time, the continuous period of time shall be six hours.

A loss of 0.20 gallons per hour or more over the testing period with the probability of detection of 0.95 and a probability of false alarm of 0.05 shall indicate a release or leakage.

(b) If at the end of the calendar month, the tank has not passed a test in accordance with 310 CMR 80.26(4)(a)1., the Owner or Operator shall conduct a tightness test of the suspected tank or piping in accordance with 310 CMR 80.32 within 72 hours of the end of the calendar month.

1. If the tank or piping fails a tightness test pursuant to 310 CMR 80.32, the Owner or Operator shall comply with 310 CMR 40.0300: *Notification of Releases and Threats of Release of Oil and Hazardous Materials; Identification and Listing of Oil and Hazardous Materials*, as applicable.

2. If the tank and the piping pass a tightness test pursuant to 310 CMR 80.32, the tank and the piping are considered tight, and the requirements for tightness testing are satisfied.

(c) An in-tank monitoring system shall be tested annually to determine whether the leak detection system is working properly. The Owner or Operator shall keep records of such tests in accordance with 310 CMR 80.36(1).

(5) Requirements for those UST systems that use a continuous in-tank detection system as its primary leak detection system are as follows:

(a) Throughout each calendar month, the Owner or Operator shall ensure that the continuous in-tank monitoring system is operating in accordance with the manufacturer's specifications.

(b) A loss of 0.20 gallons per hour with the probability of detection of 0.95 and a probability of false alarm of 0.05 shall indicate a release or leakage.

(c) If at the end of the calendar month, the continuous in-tank monitoring system indicates a release or leakage in accordance with 310 CMR 80.26(5)(b), the Owner or Operator shall conduct a tightness test of the suspected tank or piping pursuant to 310 CMR 80.32 within 72 hours of the end of the calendar month.

1. If the tank or piping fails a tightness test pursuant to 310 CMR 80.32, the Owner or Operator shall comply with 310 CMR 40.0300: *Notification of Releases and Threats of Release of Oil and Hazardous Materials; Identification and Listing of Oil and Hazardous Materials*, as applicable.

2. If the tank and the piping pass a tightness test pursuant to 310 CMR 80.32, the tank and the piping are considered tight, and the requirements for tightness testing are satisfied.

(d) If the continuous in-tank monitoring system does not produce sufficient data to obtain a conclusive result, the Owner or Operator shall within 24 hours of the end of the

calendar month take the tank out of service to allow the continuous in-tank monitoring system the minimum sufficient quality test time in accordance with the manufacturer's specification.

(e) If after complying with 310 CMR 80.26(5)(d), the Owner or Operator is still unable to obtain a passing result, the Owner or Operator shall comply with 310 CMR 80.26(5)(c) within 96 hours of the end of the calendar month.

(f) A continuous in-tank leak detection system shall be tested annually to determine whether the leak detection system is working properly. The Owner or Operator shall keep records of such tests in accordance with 310 CMR 80.36(1).

80.26: continued

(6) Requirements for an in-tank monitoring system that uses statistical inventory reconciliation (SIR) as its primary leak detection system are as follows:

(a) The Owner or Operator shall have an inventory analyses conducted by a qualified SIR vendor who analyzes inventory, delivery, and dispensing data collected over a calendar month to determine whether or not the UST system has a release or leakage.

(b) The Owner or Operator shall have equipment and procedures in place to assure that the data provided to the SIR vendor is accurate.

(c) If the SIR analysis is conclusive and identifies a release or leakage, the Owner or Operator shall conduct a tightness test of the suspected tank or piping pursuant to 310 CMR 80.32 within 72 hours of obtaining knowledge of the suspected release or leakage.

1. If the tank or piping fails a tightness test pursuant to 310 CMR 80.32, the Owner or Operator shall comply with 310 CMR 40.0300: *Notification of Releases and Threats of Release of Oil and Hazardous Materials; Identification and Listing of Oil and Hazardous Materials*, as applicable.

2. If the tank and the piping pass a tightness test pursuant to 310 CMR 80.32, the tank and the piping are considered tight, and the requirements for tightness testing are satisfied.

(d) If the SIR analysis is inconclusive, the Owner or Operator shall immediately, upon obtaining knowledge of the inconclusive result, commence an investigation to determine whether there is a release or leakage.

The Owner or Operator shall conclude the investigation within 72 hours upon obtaining knowledge of the inconclusive result. If the Owner or Operator is unable to determine that there is not a release or leakage within 72 hours upon obtaining knowledge of the inconclusive result, he or she shall:

Conduct a tightness test pursuant to 310 CMR 80.32 within 72 hours of the conclusion of the investigation.

1. If the tank or piping fails a tightness test pursuant to 310 CMR 80.32, the Owner or Operator shall comply with 310 CMR 40.0300: *Notification of Releases and Threats of Release of Oil and Hazardous Materials; Identification and Listing of Oil and Hazardous Materials*, as applicable.

2. If the tank and the piping pass a tightness test pursuant to 310 CMR 80.32, the tank and the piping are considered tight, and the requirements for tightness testing are satisfied.

(e) If the SIR analysis is conclusive and does not identify a release or leakage of regulated substance, the tank is considered tight.

(f) An in-tank monitoring system or a continuous in-tank leak detection system shall be tested annually to determine whether the leak detection system is working properly. The Owner or Operator shall keep records of such tests in accordance with 310 CMR 80.36(1).

(7) Requirements for emergency generator tanks and emergency engine driven pumps having a capacity of 1000 gallons or less, installed before January 2, 2015, that conduct weekly tank gauging as its primary leak detection system are as follows:

(a) Manual tank gauging shall be conducted every seven days.

(b) Manual tank gauging shall be conducted as follows:

1. Tank liquid level measurements shall be taken and recorded, including date and time of measurements, at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;

2. Level measurements shall be based on an average of two consecutive stick

readings at the beginning and the ending of the period;

3. The equipment used shall be capable of measuring the level of regulated substance over the full range of the tank's height to the nearest C of an inch;

4. A release or leakage shall be suspected if the variation between beginning and ending measurements exceeds the weekly or monthly standard in 310 CMR 80.26(7)(b)4.: *Table D*:

80.26: continued

Table D

Nominal Tank Capacity	Weekly Standard (One Test)	Monthly Standard (Average of Four
500 gallons or less	10 gallons	5 gallons
501 through 1,000	13	7 gallons

(c) In the event of a suspected release or leakage, the Owner or Operator shall comply with 310 CMR 80.31(1)(e) through (g).

(8) Requirements for emergency generator tanks or emergency engine driven pumps having a capacity of more than 1000 gallons, installed before January 2, 2015 that conduct monthly tank gauging as its primary leak detection system are as follows: (These tanks and pumps shall also conduct an annual tightness test in accordance with 310 CMR 80.32).

(a) Manual tank gauging shall be conducted every 30 days.

(b) Manual tank gauging shall be performed as follows:

1. Tank liquid level measurements shall be taken and recorded, including date and time of measurements, at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;

2. Level measurements shall be based on an average of two consecutive stick readings at the beginning and the ending of the period;

3. The equipment used shall be capable of measuring the level of regulated substance over the full range of the tank's height to the nearest C of an inch;

4. A release or leakage shall be suspected if the variation between beginning and ending measurements exceeds the monthly standard in 310 CMR 80.26(8)(b)4.: *Table E*:

Table E

Nominal Tank Capacity	**Monthly Standard**
More than 1000 gallons	7 gallons plus 2 gallons for every additional 1000

(c) In the event of a suspected release or leakage, the Owner or Operator shall comply with 310 CMR 80.31(1)(e) through (g).

(9) Automatic line leak detectors shall be tested annually to determine whether the automatic line leak detector is working properly. The Owner or Operator shall keep records of such tests in accordance with 310 CMR 80.36(1).

(10) Requirements for piping installed before January 1, 1989:

(a) Non-European suction piping, if it does not have secondary containment and continuous monitoring of interstitial space, may be tightness tested in accordance with 310 CMR 80.32 every three years. The Owner and Operator shall maintain records of the tightness testing in accordance with 310 CMR 80.36(1).

(b) Single-walled pressurized piping systems may conduct an annual tightness test in accordance with 310 CMR 80.32. The Owner and Operator shall maintain records of the tightness testing in accordance with 310 CMR 80.36(1).

(11) If the Owner or Operator cannot demonstrate that its European suction piping is sloped back to the tank and that its one check valve is located directly under the dispenser to the satisfaction of the Department, including, but not limited to, an accurate drawing, as-built plans or installation records, it shall comply with the standards for non-European piping at 310 CMR 80.19(4)(a)1. or (b)1., as applicable.

(12) The Owner or Operator shall test those components of the leak detection system that are repaired or replaced, prior to returning the leak detection system to service, to determine that they are operational. The Owner or Operator shall keep records of such tests in accordance with 310 CMR 80.36(1).

80.26: continued

(13) All leak detection records required in 310 CMR 80.26(1) through (12) shall be kept in accordance with 310 CMR 80.36(1).

80.27: Requirements for Turbine, Intermediate and Dispenser Sumps

(1) Owners and Operators shall operate and maintain turbine, intermediate and dispenser sumps in accordance with 310 CMR 80.27.

(2) Turbine, intermediate and dispenser sumps shall be clean and free of solid and liquid material at all times.

(a) If a sensor or visual observation indicates that there is liquid in the sump, the liquid shall be removed immediately.

(b) If the liquid is a regulated substance, the Owner or Operator shall investigate the source of the regulated substance, shall investigate the path of entry to the sump, and shall make any necessary repairs in accordance with 310 CMR 80.33.

(c) The solid and liquid material that collects in a sump shall be removed and managed in accordance with applicable local, state and federal laws and regulations.

(3) All sump sensors shall be placed in accordance with the manufacturer's specifications, or, if no such specifications exist, the sensors shall be placed at the lowest possible location in the sump.

(4) All tanks using a submersible pump that do not have a turbine sump shall be inspected every 30 days.

(a) The Owner or Operator shall visually inspect the area around the submersible pump as follows:

1. Visually inspect the submersible pump for release of regulated substance(s); and
2. Visually inspect the submersible pump and other components for signs of corrosion, breakage and wear.

(b) The Owner or Operator shall repair or replace components as necessary in accordance with 310 CMR 80.33; and

(c) The Owner or Operator shall keep records of this inspection and any repairs or replacements to demonstrate compliance with 310 CMR 80.27(4) in accordance with 310 CMR 80.36(1) and (5).

(5) The Owner or Operator shall inspect turbine, intermediate and dispenser sumps in accordance with 310 CMR 80.27(6) and the following schedule:

(a) Single-walled and double-walled sumps without continuous monitoring sensors in the sump and single-walled and double-walled sumps with continuous monitoring that do not meet 310 CMR 80.27(5)(b)1. through 3. shall be inspected every 90 days.

(b) Single-walled and double-walled sumps with continuous monitoring sensors in the sump shall be inspected annually, if:

1. The sensors are placed in accordance with the manufacturer's specifications, or, if no such specifications exist, the sensors are placed at the lowest possible location in the sump; and
2. The sump sensors are tested annually, and the test results indicate the sensors are operating in accordance with the manufacturer's specifications. The Owner or Operator shall keep records of this test in accordance with 310 CMR 80.36(1); and
3. The Owner or Operator responds to alarms in accordance with 310 CMR 80.24(3).

(6) Turbine, intermediate and dispenser sumps shall be inspected in accordance with the schedule at 310 CMR 80.27(5) and as follows:

(a) The Owner or Operator shall:

1. Visually inspect the sump to determine if there is solid or liquid material in the sump;
2. Visually inspect sump components for signs of corrosion, breakage and wear; and
3. Verify that any sumps sensors are placed in accordance with the manufacturer's specifications, or, if no such specifications exist, the sensors are placed at the lowest possible location in the sump.

80.27: continued

(b) The Owner or Operator shall remove and manage solid and liquid material from the sump in accordance with all applicable federal, state and local laws and regulations.
(c) The Owner and Operator shall repair and replace components as necessary in accordance with 310 CMR 80.33.
(d) The Owner or Operator shall keep records of inspections, repairs and replacements to demonstrate compliance with 310 CMR 80.27(5) and (6) in accordance with 310 CMR 80.36(1) and (5).

(7) The Owner or Operator shall test turbine, intermediate and dispenser sumps on or before January 2, 2017 in accordance with 310 CMR 80.27(8).
(a) Sumps with a sensor shall be tested hydrostatically to the level that will activate the sensor or by vacuum testing.
(b) Sumps that do not have a sensor shall be tested hydrostatically to the top of the sump or by vacuum testing.

(8) The Owner or Operator shall test the sumps and the sumps shall pass an integrity test in accordance with the schedule at 310 CMR 80.27(7) to ensure the sump is liquid tight by using vacuum or hydrostatic testing. The standard for declaring a failure is C inch or greater loss of water within one hour (which is equal to a leak rate of 0.05 gallons per hour in a typical 12-inch diameter basin).
(a) If the sump fails a test, the Owner or Operator shall investigate the failure and shall make any necessary repairs in accordance with 310 CMR 80.33.
(b) The Owner or Operator shall keep records of this test to demonstrate compliance with 310 CMR 80.27(7) and (8), including but not limited to the date of the test and the results, in accordance with 310 CMR 80.36(1).

(9) Turbine, intermediate and dispenser sumps that are repaired shall pass an integrity test in accordance with 310 CMR 80.27(8) to determine that they hold liquid, vacuum or pressure which may be conducted by hydrostatic, vacuum or pressure tests. The Owner or Operator shall keep records of such tests in accordance with 310 CMR 80.36(1).

80.28: Requirements for Spill Buckets and Overfill Prevention Equipment

(1) Owners and Operators shall at all times operate and maintain spill buckets and overfill prevention equipment in accordance with 310 CMR 80.21 and 80.28(2) and (3).

(2) Requirements for the proper operation and maintenance of spill buckets are as follows:
(a) The Owner or Operator shall keep spill buckets clean and free of solid and liquid material.
(b) The Owner or Operator shall maintain the spill bucket and cover so that they are free of cracks and holes at all times.
(c) The Owner or Operator shall remove and manage any solid or liquid material that collects within a spill bucket in accordance with local, state and federal laws and regulations.
(d) The Owner or Operator shall maintain spill buckets in accordance with the manufacturer's specifications.
(e) The Owner or Operator shall inspect spill buckets monthly in accordance with the following:
1. Visually inspect the spill bucket to determine if there is solid or liquid material in the spill bucket.
2. Visually inspect spill buckets and covers for signs of corrosion, breakage and wear.
3. Verify that sensors are set in accordance with the manufacturer's specifications, if applicable.
(f) The Owner or Operator shall test spill buckets in accordance with 310 CMR 80.28(2)(g) on or before January 2, 2017 and once every five years thereafter.
(g) The Owner or Operator shall test spill buckets in accordance with the schedule at 310 CMR 80.28(2)(f) and in accordance with the following requirements:
1. Spill buckets shall pass an integrity test to ensure the spill bucket is liquid tight by using vacuum or hydrostatic testing.

80.28: continued

2. The standard for declaring a failure is **C** inch or greater loss of water within one hour (which is equal to a release or leakage of 0.05 gallons per hour in a typical 12-inch diameter basin).

3. If the spill bucket fails the test, the Owner or Operator shall repair or replace the spill bucket in accordance with 310 CMR 80.33.

(h) The Owner or Operator shall repair or replace spill buckets as necessary in accordance with 310 CMR 80.33.

(i) The Owner or Operator shall keep the following spill bucket records in accordance with 310 CMR 80.36(1).

1. Records of spill bucket inspections to demonstrate compliance with 310 CMR 80.28(2)(e).

2. Records of spill bucket integrity tests to demonstrate compliance with 310 CMR 80.28(2)(f) and (g).

(3) Requirements for proper operation and maintenance of overfill prevention equipment are as follows:

(a) The Owner or Operator shall inspect and test the overfill prevention equipment as required by the manufacturer's specifications to verify that the overfill protection is operational. If no manufacturer's specifications exist, the Owner or Operator shall inspect and test the overfill prevention equipment annually to verify that the overfill protection is operational.

(b) The Owner or Operator shall repair or replace components as necessary in accordance with 310 CMR 80.33.

(c) Overfill prevention equipment that is repaired shall be tested to determine that it is operational.

(d) The Owner or Operator shall keep records of the following in accordance with 310 CMR 80.36(1):

1. Records of inspections as required by the manufacturer's specifications or, if no manufacturer's specifications exist, an annual inspections to demonstrate compliance with 310 CMR 80.28(3)(a).

2. Records of testing to demonstrate compliance with 310 CMR 80.28(3)(c).

(4) The Owner or Operator shall ensure that the volume available in the tank is greater than the volume of regulated substance to be transferred to the tank before the regulated substance transfer is made.

80.29: Requirements for Corrosion Protection

(1) Owners and Operators shall operate and maintain corrosion protection in accordance with 310 CMR 80.22 and 80.29.

(2) Sacrificial or galvanic anode cathodic protection systems shall be tested by a cathodic protection tester at the following reoccurring frequency and in accordance with the NACE standards at 310 CMR 80.29(3):

(a) If test results indicate a negative voltage of at least -0.90 volts or if the system passes the 100-mV cathodic polarization test as indicated in the NACE Standards at 310 CMR 80.29(3)(a) or (b), the system shall be tested at three year intervals thereafter.

(b) If test results indicate a negative voltage of between -0.85 and -0.90 the system shall be tested annually thereafter.

(c) If test results indicate a negative voltage of less than -0.85 or if the system fails the 100-mV cathodic polarization test as indicated in the NACE Standard at 310 CMR 80.29(3)(a) or (b), the system shall be deemed inadequate and the Owner and Operator shall comply with 310 CMR 80.29(5).

(3) Sacrificial or galvanic anode cathodic protection systems shall be tested by a cathodic protection tester at the reoccurring frequency in 310 CMR 80.29(2) and in accordance with the following standards:

(a) NACE Standard Test Method: NACE Standard TM0101-2012, *Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged*

Metallic Tank Systems; or

80.29: continued

(b) NACE Standard Test Method: NACE Standard TM0497-2012, *Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems*.

(4) Impressed current cathodic protection systems shall be tested every 12 months by a cathodic protection tester to determine whether the UST system is protected against corrosion.

(a) In addition to the annual testing, impressed current systems shall be inspected every 60 days by the Owner or Operator in accordance with the manufacturer's specifications or the NACE publications listed at 310 CMR 80.29(3)(a) or (b) to ensure the equipment is operating as designed.

(b) Acceptable system operating voltage and amperage ranges as determined by the corrosion expert shall be affixed to each rectifier.

1. System voltage and amperage readings shall be recorded every 60 days.
2. If the system voltage and amperage readings are outside the range determined to be acceptable by the cathodic protection tester, it is considered a failed test and the Owner or Operator shall comply with 310 CMR 80.29(5).

(c) Systems installed without voltage and/or amperage meters shall be retrofitted with meters upon the first annual test of the system after January 2, 2015.

(5) The Owner or Operator shall determine the cause of the failed cathodic protection test by retaining a corrosion expert within five business days of obtaining knowledge of the failed test, unless the cathodic protection tester can make repairs, re-test and the result is a passing test within said five business day period of the failed test.

(a) If necessary, the Owner or Operator shall repair or replace the cathodic protection system within 120 days of the date of the failed test.

(b) The Owner or Operator shall document the results of the corrosion expert's determination, including, but not limited to, the date of the investigation and the results.

(c) If repairs to the cathodic protection system are not completed within 120 days of the date of the failed test, the Owner or Operator shall either take the UST system temporarily out-of-service in accordance 310 CMR 80.42, or permanently close the UST system in accordance with 310 CMR 80.43.

(6) All cathodic protection systems shall be tested by a cathodic protection tester for proper operation within 60 days following a repair to the cathodic protection system or an excavation at the UST system.

(7) The Owner or Operator shall keep the following records in accordance with 310 CMR 80.36(1):

(a) Documentation of corrosion experts determination in 310 CMR 80.29(5)(b).

(b) Records of testing of cathodic protection system(s).

80.30: Requirements for Compatibility

(1) The Owner and Operator shall not introduce, or allow to be introduced, any material into a UST system that is not compatible with the UST system.

(2) The Owner or Operator shall ensure that all UST systems are compatible with the environment in which they are installed, including, but not limited to, soil and groundwater.

80.31: Requirements for Inventory Monitoring

(1) Daily Inventory Monitoring.

(a) The Owner or Operator of a tank that is not double-walled in accordance with 310 CMR 80.17 and does not have continuous monitoring in accordance with 310 CMR 80.19(3)(a), or (b)1. or 3. shall conduct inventory monitoring for abnormal regulated substance loss.

(b) The Owner or Operator of UST systems with tanks having a capacity of 1000 gallons or less may use manual tank gauging in accordance with 310 CMR 80.31(2) in order to

satisfy the requirements of 310 CMR 80.31(1)(a).

80.31: continued

(c) Inventory monitoring for abnormal regulated substance loss shall be performed as follows:

1. Take daily measurements and reconcile inventory data daily and monthly;
2. Measure the liquid in the tank using:
   a. A gauge stick or tape with water sensitive paste which shall be capable of measuring liquid in the tank to the nearest C of an inch; or
   b. An automatic tank gauging device of equivalent or better measuring accuracy.
3. At the close of each calendar month, determine, for that month and for each tank or combination of tanks, the number of days in which any amount of regulated substance was dispensed and the number of days in which a loss of regulated substance was recorded.
4. Record all daily measurements and monthly reconciliation information.

(d) An abnormal regulated substance loss from any tank or combination of tanks shall mean a loss not explainable by any spillage, temperature variations or other causes in excess of 1% of the volume plus 130 gallons of regulated substance dispensed over a period of a calendar month.

(e) In the event of abnormal regulated substance loss, the Owner or Operator shall take the following steps within the 72 hours following the discovery of the abnormal regulated substance loss:

1. Check the inventory input and output records for mathematical error; and
2. Check the inventory for an error in measurement.

(f) If the abnormal regulated substance loss cannot be reconciled in accordance with 310 CMR 80.31(1)(e)1. or. 2., the UST system shall be tested for tightness in accordance with 310 CMR 80.32.

(g) If the tank fails a tightness test pursuant to 310 CMR 80.32, the Owner or Operator shall comply with 310 CMR 40.0300: *Notification of Releases and Threats of Release of Oil and Hazardous Materials; Identification and Listing of Oil and Hazardous Materials*, as applicable.

If the tank passes a tightness test pursuant to 310 CMR 80.32, the tank is considered tight, and the requirements for tightness testing in 310 CMR 80.32 are satisfied.

(2) Manual Tank Gauging for Small Tanks.

(a) Owners and Operators may use weekly manual tank gauging on tanks that have a capacity of 1000 gallons or less, in accordance with 310 CMR 80.31(2)(b) and (c), to satisfy the inventory monitoring requirements in 310 CMR 80.31(1)(a).

(b) Manual tank gauging shall be conducted every seven days as follows:

1. Tank liquid level measurements shall be taken and recorded, including date and time of measurements, at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;
2. Level measurements shall be based on an average of two consecutive stick readings at the beginning and the ending of the period;
3. The equipment used shall be capable of measuring the level of regulated substance over the full range of the tank's height to the nearest C of an inch;
4. A release or leakage shall be suspected if the variation between beginning and ending measurements exceeds the weekly or monthly standard in 310 CMR 80.31(2)(b)4.: *Table F*:

Table F

Nominal Tank Capacity	Weekly Standard (One Test)	Monthly Standard (Average of Four
500 gallons or less	10	5 gallons
501 through 1,000 gallons	13	7 gallons

(c) In the event of a suspected release or leakage, the Owner and Operator shall comply with 310 CMR 80.31(1)(e) and (f).

80.31: continued

(3) Abnormal Water Gain.

(a) Owners and Operators that are subject to the requirements of 310 CMR 80.31 shall also take daily measurements to determine if there is abnormal water gain in the tank.

(b) The measurement shall be taken using a method in 310 CMR 80.31(1)(c).

(c) All measurements shall be recorded.

(d) An abnormal gain of water inside the tank shall be a gain in the water level of more than one inch in a 24 hour period.

(e) The Owner or Operator shall have the water removed from the tank and managed in accordance with applicable local, state and federal laws and regulations.

(f) The Owner or Operator shall have the tank checked for water in accordance with 310 CMR 80.31(3)(b) through (d) within 24 hours of the removal of the water, during which time no regulated substance shall be added to the tank.

(g) In the event of any abnormal water gain, the Owner or Operator shall:

1. Within 72 hours of obtaining knowledge of the abnormal water gain, investigate the cause of the abnormal water gain and make repairs or replacements as necessary.

2. If the Owner or Operator cannot determine the cause of the abnormal water gain, the UST system shall be tested for tightness in accordance with 310 CMR 80.32.

a. If the tank fails a tightness test pursuant to 310 CMR 80.32, the Owner or Operator shall comply with 310 CMR 40.0300: *Notification of Releases and Threats of Release of Oil and Hazardous Materials; Identification and Listing of Oil and Hazardous Materials*, as applicable.

b. If the tank passes a tightness test pursuant to 310 CMR 80.32, the tank is considered tight, and the requirements for tightness testing in 310 CMR 80.32 are satisfied.

(4) Records. The Owner or Operator shall maintain all records of inventory monitoring, including but not limited to sales receipts, weekly and monthly measurements, and records of monitoring for abnormal water gain found at 310 CMR 80.31(3), in accordance with 310 CMR 80.36(1).

(5) Waste Oil Tanks. Waste oil tanks that are subject to 310 CMR 80.31 and are connected to oil burning equipment shall be exempt from 310 CMR 80.31 during periods when oil burning equipment is in use.

80.32: Requirements for Tank and Pipe/Line Tightness Testing

(1) Owners and Operators of all UST systems shall meet the following tightness testing standards:

(a) Until January 1, 2018, tank and piping/line tightness testing shall be capable of detecting a release or leakage of 0.1 gallon per hour, accounting for the effects of thermal expansion or contraction of regulated substance, vapor pockets, tank deformation, evaporation, condensation, and the location of the water table. The probability of detection shall be no less than 95% and the probability of a false alarm shall be no more than 5%.

(b) On and after January 1, 2018, tank and piping/line tightness testing shall be capable of detecting a release or leakage of 0.05 gallon per hour, accounting for the effects of thermal expansion or contraction of regulated substance, vapor pockets, tank deformation, evaporation, condensation, and the location of the water table. The probability of detection shall be no less than 95% and the probability of a false alarm shall be no more than 5%.

(2) Owners or Operators of all UST systems shall meet the following tightness test and reporting requirements:

(a) A tank or pipe/line tightness test shall be performed by a certified UST system tightness tester using the appropriate test for the particular tank or piping/line.

(b) When a tightness test is performed, the Owner or Operator shall compile a report or log that shall include, but not be limited to, the following:

1. Date the test was performed;

2. Facility name and address;
3. Facility Owner name and address;
4. Identification of the tank or piping/line that was tested;

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5. Reason for the test, including, but not limited to, the date when the Owner and Operator first discovered the need for the test;
6. Type of tightness test equipment used for the test;
7. Name of the certified UST system tightness tester, his/her certificate number and expiration date, and the name of any persons assisting in the test;
8. Data sheets with test readings recorded;
9. Calculations pertaining to the test method and test results;
10. Location of monitoring or observation well, if used in test procedure;
11. Description of method used to measure the water table, if required, and the result; and
12. Signature of the certified UST system tightness tester attesting to the accuracy of the information of the test result.

(c) The report or log prepared pursuant to 310 CMR 80.32(2)(b) shall be kept in accordance with 310 CMR 80.36(1).

(3) Tightness Test Failures.

(a) A tank or piping/line fails a tightness test when the test results indicate a release or leakage from the UST system that exceeds the detection standards at 310 CMR 80.32(1)(a) or (b), as applicable.

(b) If the tank or piping/line fails a tightness test, the certified UST system tightness tester shall immediately, but in no event later than 24 hours after obtaining knowledge of the failed test notify the Owner and Operator and the fire department in the city or town in which the UST system is located.

(c) The Owner or Operator shall comply with 310 CMR 80.33, 80.38 and 80.39 and 310 CMR 40.0300: *Notification of Releases and Threats of Release of Oil and Hazardous Materials; Identification and Listing of Oil and Hazardous Materials*, as applicable.

80.33: Requirements for Repairs and Replacements

(1) A tank that has released regulated substance shall immediately be emptied, but in no event shall be emptied later than 24 hours of obtaining knowledge of the release.

(a) The tank shall be permanently closed or removed in accordance with 310 CMR 80.43(2) or (3), unless the manufacturer of the tank repairs and re-certifies or re-warranties the tank, in writing, and the tank passes a tightness test in accordance with 310 CMR 80.32.

(b) The Owner and Operator shall comply with 310 CMR 40.0000: *Massachusetts Contingency Plan*, if applicable.

(2) A tank that has leakage of regulated substance shall be immediately emptied, but in no event shall be emptied later than 72 hours of obtaining knowledge of the leakage.

(a) The tank shall be permanently closed or removed in accordance with 310 CMR 80.43(2) or (3), unless the manufacturer of the tank repairs and re-certifies or re-warranties the tank, in writing, and the tank passes a tightness test in accordance with 310 CMR 80.32.

(b) The Owner and Operator shall comply with 310 CMR 40.0000: *Massachusetts Contingency Plan*, if applicable.

(3) Any piping or portion of piping that is the source of leakage or a release shall be immediately isolated and emptied of regulated substance. The piping shall remain empty until said piping or portion of piping is repaired or replaced or the UST system is permanently closed or removed in accordance with 310 CMR 80.43(2) or (3).

The Owner and Operator shall comply with 310 CMR 40.0000: *Massachusetts Contingency Plan*, if applicable.

(4) The Owner or Operator shall repair or replace UST systems and UST components within 30 days of the discovery of the need for repair or replacement, unless the UST system is

taken temporarily out-of-service, removed or permanently closed, in accordance with 310 CMR 80.42 or 80.43, within 30 days of the discovery of the need for the repair or replacement.

(a) If a longer timeframe for a repair is provided in a specific section of 310 CMR 80.00, the longer timeframe shall apply to that specific repair.

(b) The Owner or Operator shall document the discovery date of the repair or replacement. This documentation shall be retained in accordance with 310 CMR 80.36(1).

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(c) If, due to circumstances beyond the Owner and Operator's control, the repair or replacement cannot be conducted within 30 days of the discovery of said repair or replacement, the Owner or Operator shall notify the Department, in writing, within 30 days of the discovery of the need for a repair or replacement, information detailing the circumstances and a schedule for implementing the repairs or replacements.

(5) The Owner or Operator shall ensure that any repair of a UST system or UST component is performed by a qualified individual, in accordance with the manufacturer's specifications, 310 CMR 80.00 and applicable codes and standards.

(6) If a repair is made to the tank or the piping, the Owner or Operator shall ensure that the tank or piping is tightness tested in accordance with 310 CMR 80.32 within 30 days following the date of the completion of the repair.

(7) The Owner or Operator shall maintain records of every UST system or UST component repair, including, but not limited to, a description of the repair and the date of said repair, for the remaining operating life of the UST system in accordance with 310 CMR 80.36(5).

80.34: Requirements for Compliance Certification

(1) Certification Form. The Owner or Operator of a UST system shall submit, to the Department, a compliance certification in accordance with 310 CMR 70.00: *Environmental Results Program Certification*, no earlier than 16 months and no later than 18 months from the UST facility compliance date or the date of the most recent third-party inspection report submission, whichever is earlier. The compliance certification shall be submitted in a format specified by the Department. The Owner or Operator shall certify whether or not the Owner or Operator has complied with the following requirements:

(a) Financial responsibility obligations in accordance with 310 CMR 80.51 through 80.63;

(b) All testing requirements for leak detection, sumps, spill buckets, overfill prevention, and corrosion protection in accordance with 310 CMR 80.20 through 80.22 and 80.26 through 80.29;

(c) All registration, reporting and record keeping requirements in accordance with 310 CMR 80.23 and 80.36;

(d) Emergency procedure requirements in accordance with 310 CMR 80.25;

(e) That cathodic protection readings have been taken and recorded in accordance with 310 CMR 80.29(4)(b), as applicable;

(f) A demonstration that all Class A, B and C Operators are certified in accordance with 310 CMR 80.37;

(g) For all sump, spill bucket and overfill prevention equipment inspections in accordance with 310 CMR 80.27 and 80.28;

(h) That all repairs and replacements have been completed in accordance with 310 CMR 80.33; and

(i) That the UST components and configuration of the UST system and UST components have not changed. If the UST system or UST component has changed, completion and submission of an amended registration form to the Department in accordance with 310 CMR 80.23(1).

(2) Return to Compliance. At the time of submission, if the Owner or Operator is out of compliance with any of the requirements on the Certification Form, the Owner or Operator shall submit a Return to Compliance (RTC) Plan with the Certification Form that details what the Owner or Operator will do to return to compliance and the date by which compliance

will be achieved. The RTC Plan shall include, but not be limited to, actions the Owner or Operator has taken or will take to come into compliance and remain in compliance with the requirements of 310 CMR 80.00.

(a) The deficiencies identified in the RTC plan shall be corrected within 30 days of the submittal of the Certification Form, unless the RTC plan documents a reasonable basis for why more time is needed to correct the deficiencies and provides an anticipated completion date.

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(b) If the Department determines that the proposed completion date is not reasonable, the Department shall notify the Owner or Operator that deficiencies shall be corrected by a date earlier than the proposed date.

(c) The Owner or Operator shall notify the Department, in a format specified by the Department, when the deficiencies are corrected.

(3) Certification for Temporarily Out-of-service UST System. The Owner or Operator of a UST system that is temporarily out-of-service shall certify compliance with the requirements at 310 CMR 80.42(4).

(4) New or Newly Regulated UST Facility. If a UST facility is installed or becomes subject to 310 CMR 80.00 after January 2, 2015, the compliance certification statement is due to Department no earlier than 16 months and no later than 18 months after the date of registration in accordance with 310 CMR 80.23.

(5) Certification Statement. The Owner or Operator shall comply with the Certification Statement requirements at 310 CMR 70.03(2): *Certification Statement*, except that 310 CMR 70.03(2)(b) and (c) shall not apply.

80.35: Requirements for Monthly Inspections

(1) Owners and Operators are responsible for ensuring that monthly visual inspections meeting the requirements in 310 CMR 80.35(2) are conducted at all underground storage tank systems. A Class A or B Operator shall conduct the monthly visual inspections, or the monthly visual inspections shall be conducted under the direction of a Class A or B Operator.

(2) The monthly visual inspection of underground storage tank systems and UST components shall include, but not be limited to:

(a) Verifying that the electronic monitoring equipment is currently on and properly operating.

(b) Inspecting each spill bucket in accordance with 310 CMR 80.28(2)(e).

(c) Verifying that grade level fill covers are properly color-coded.

(3) If the visual inspection indicates that any underground storage tank system components are not properly operating or are not being maintained in accordance with 310 CMR 80.00, manufacturer's specifications and applicable codes and standards, the Owner or Operator shall repair said component(s) in accordance with 310 CMR 80.33.

(4) Every requirement under 310 CMR 80.35(2) shall be recorded on a monthly inspection report or log that contains at a minimum the following information:

(a) Whether the component is properly operating and being maintained.

(b) Any repairs conducted on components designated as not operating or being maintained in accordance with 310 CMR 80.00, the manufacturer's specifications and all applicable codes and standards.

(5) The results of each inspection shall be recorded and retained in accordance with 310 CMR 80.36(1).

80.36: Requirements for Recordkeeping

(1) For a minimum of four years, the Owner or Operator shall maintain records in hard

copy or electronically, and shall make them available to the Department as soon as possible following a request, but in no event more than seven business days after the request. The records shall include, but are not limited to:

(a) Results of all turbine, intermediate and dispenser sump inspections and integrity tests in accordance with 310 CMR 80.20(4) and 80.27(4)(c), (6)(d), (8)(b) and (9)(a).

(b) Results of all annual sump sensor testing, if applicable, in accordance with 310 CMR 80.27(5)(b)2. and (7)(c)2.

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(c) Results of all spill bucket inspections and integrity tests in accordance with 310 CMR 80.21(1)(c) and 80.28(2)(i).

(d) Results of all cathodic protection tests in accordance with 310 CMR 80.22(6) and 80.29(7).

(e) Records to demonstrate the Owner or Operator responded to alarms in accordance with 310 CMR 80.24(3).

(f) Results of all leak detection tests in accordance with 310 CMR 80.26(1) through (11), as applicable.

(g) Leak detection monitoring records in accordance with 310 CMR 80.26(6), (7) and (8), as applicable.

(h) Results of inspections and testing of overfill prevention equipment in accordance with 310 CMR 80.28(3)(d).

(i) Records for all inventorymonitoring for abnormal regulated substance loss and abnormal water gain in accordance with to 310 CMR 80.31(4), if applicable.

(j) Reports of tightness tests conducted, excluding tests conducted at installation, in accordance with 310 CMR 80.32(2)(c).

(k) Documentation of the date the need for the repair or replacement was discovered in accordance with 310 CMR 80.33(4)(b).

(l) Records to demonstrate compliance with change-in-product requirements at 310 CMR 80.41(6).

(m) Monthly inspection reports or logs in accordance with 310 CMR 80.35(5).

(2) For at least two years after the Operator is no longer designated, the Owner or Operator shall maintain records in hard copy or electronically, that each Class A, Class B and Class C Operators was certified in accordance with 310 CMR 80.37(7) through (9), and shall make them available to the Department as soon as possible following a request, but in no event more than seven business days after the request.

(3) Until the UST system is removed or permanently closed in accordance with 310 CMR 80.43(2) or (3), the Owner or Operator shall maintain the most recent copy of the following records in hard copy or electronically, and shall make them available to the Department as soon as possible following a request, but in no event more than seven business days after the request.

(a) A copy of the registration in accordance with 310 CMR 80.23(1).

(b) A copy of the third-party inspection report pursuant to 310 CMR 80.49(6)(b).

(c) List of the current Class A, Class B and Class C Operators of each UST system in accordance with 310 CMR 80.37(11).

(d) Records that the Owner and Operator complied with temporary closure requirements in accordance with 310 CMR 80.42(6), if applicable.

(e) Records to demonstrate that the Owner and Operator complied with the permanent closure requirements in accordance with 310 CMR 80.43(7), if applicable.

(f) Emergency procedures in accordance with 310 CMR 80.25(2).

(4) For the life of a cathodic protection system, the Owner or Operator shall maintain an as built, scaled plan of the cathodic protection system and manufacturer's specifications in accordance with 310 CMR 80.22(4)(c), in hard copy or electronically, and shall make them available to the Department as soon as possible following a request, but in no event more than seven business days after the request.

(5) Until the UST system is removed or permanently closed in accordance with 310 CMR 80.43(2) or (3), the Owner or Operator shall maintain the following records in hard copy or electronically, and shall make them available to the Department as soon as possible

following a request, but in no event more than seven business days after the request:

(a) Records of each equipment repair or replacement in accordance with 310 CMR 80.33(7).

(b) A copy of installation information including, but not limited to, the installer's certification and checklist, testing results, inspections and a copy of the scaled drawing or as-built plans of the UST facility in accordance with 310 CMR 80.16.

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(6) An Owner or Operator shall maintain the most current financial assurance mechanism(s) used to demonstrate financial responsibility in accordance with 310 CMR 80.59 for a UST system until released from the requirements in accordance with 310 CMR 80.61. The Owner or Operator shall keep the documentation in hard copy or electronically. Upon request from the Department, the Owner or Operator shall make the documentation available to the Department as soon as possible, but in no event more than seven business days after receiving the request.

(7) An Owner or Operator shall maintain documentation that a UST system holds a *de minimus* concentration of regulated substance, until the Owner and Operator no longer claim the exemption, in accordance with 310 CMR 80.04(5)(c). The Owner or Operator shall keep the documentation in hard copy or electronically. Upon request from the Department, the Owner or Operator shall make the documentation available to the Department as soon as possible, but in no event more than seven business days after receiving the request.

OPERATOR TRAINING

80.37: 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 80.37 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 80.37(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) through (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 80.37(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 80.37(7)(c) and (d) which may include on-the-job training; and

2. Take and pass an Operator examination in accordance with 310 CMR 80.37(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 80.37(4) and shall include those systems for which the Class A Operator is designated. Said training shall include, but not be limited to:

80.37: continued

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 80.37(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 80.37(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 80.37(8)(c) and (d) which may include on-the-job training; and

2. Take and pass an Operator examination in accordance with 310 CMR 80.37(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 80.37(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 80.37(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 80.37(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 80.37(9)(b) and (c). The trainer shall also document the underlying reason for the re-training in accordance with 310 CMR 80.37(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 80.37(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 80.37(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 a UST system is out of compliance with applicable state regulations, the Department mayrequire 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.

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LEAKAGE AND RELEASE: RESPONSE, REPORTING AND REMEDIATION

80.38: Response to a Release

(1) Nothing in 310 CMR 80.00 shall affect the Owner or Operator notification obligations under 310 CMR 40.0000: *Massachusetts Contingency Plan*.

(2) In the event of a release from a tank, the Owner or Operator shall empty the tank immediately, but in no event later than 24 hours of obtaining knowledge of the release.

(3) In the event of a release from piping, the Owner or Operator shall immediately empty and isolate the section of pipe determined to have had the release.

80.39 Response to Leakage

(1) In the event of leakage, whether determined by testing, visual inspection or otherwise, the following steps shall be taken:

(a) If testing, visual inspection or other information has confirmed that the source of the leakage is the piping, the Owner or Operator shall immediately:

1. Isolate and empty the section of the pipe determined to have leakage until the section is repaired or replaced; or
2. Take that UST system temporarily out-of-service in accordance with 310 CMR 80.42; or
3. Remove or permanently close the UST system in accordance with 310 CMR 80.43.

(b) If testing has confirmed that the source of the leakage is a particular tank, the Owner or Operator shall immediately, but in no event later than 72 hours of obtaining the test results, empty the UST system; and:

1. Repair the tank in accordance with 310 CMR 80.33(2); or
2. Remove the tank in accordance with 310 CMR 80.43(2); or
3. Permanently close-in-place the tank in accordance with 310 CMR 80.43(3).

80.40: Reportable Releases

For each reportable release pursuant to 310 CMR 40.0000: *Massachusetts Contingency Plan*, the Owner or Operator shall provide the following information to the Department, in a format provided by the Department, in accordance with 310 CMR 80.23(3)(c):

(a) The source of each reportable release from a UST system, *i.e*. the UST component or piece of equipment that failed, if known; and

(b) The cause of each reportable release from a UST system, *i.e*. the reason for the failure, if known.

CHANGE-IN-PRODUCT, OUT-OF-SERVICE SYSTEMS AND CLOSURE

80.41: Requirements for Change-in-product

(1) Owners and Operators shall comply with all requirements in 310 CMR 80.41.

(2) A UST system once used for non-food grade regulated substances shall not be reused to store food products or drinking water.

(3) The Owner shall notify the Department, in a format specified by the Department, of a change-in-product in accordance with 310 CMR 80.23(2)(a) and the following timeframes:

(a) If the change-in-product is from a regulated substance to a different regulated substance, within 30 days of executing the change.

(b) If the change-in-product is from a regulated substance to a non-regulated substance, prior to executing the change.

(c) If the change-in-product is from a non-regulated substance to a regulated substance, within 30 days of receiving regulated substance into the UST system, in accordance with 310 CMR 80.23(1).

80.41: continued

(4) If the change-in-product is from a regulated substance to a non-regulated substance:

(a) Before executing a change-in-product, the Owner or Operator shall remove all solid and liquid material in accordance with 310 CMR 80.47. The Owner or Operator shall manage the solid and liquid material removed from the UST system in accordance with all applicable federal, state and local laws and regulations; and

(b) The UST system will no longer be subject to 310 CMR 80.00, except that the Owner and Operator shall continue to be responsible for remediating any releases of regulated substances that occurred. The Owner or Operator shall conduct an assessment in accordance with 310 CMR 80.43(4), after notifying the Department of the change-in-product, but before the change-in-product is executed.

(5) If the change-in-product is from a regulated substance to another regulated substance, before executing the change-in-product, the Owner or Operator shall empty the tank. The Owner or Operator shall manage the solid and liquid material removed from the UST system in accordance with all applicable federal, state and local laws and regulations.

(6) Owners or Operators shall demonstrate compliance with the requirements for change-in-product by maintaining records/documentation, in accordance with 310 CMR 80.36(1).

80.42: Requirements for Taking a UST System Temporarily Out-of-service

(1) Owners and Operators shall comply with all requirements in 310 CMR 80.42.

(2) Within 30 days after a UST system is taken temporarily out-of-service, the Owner shall notify the Department in a format specified by the Department in accordance with 310 CMR 80.23(2)(b).

(3) The Owner or Operator shall not take a UST system temporarily out-of-service for more than five years.

(a) If a temporarily out-of-service UST system is not put back into service at the end of five years, the Owner or Operator shall permanently close the UST system in accordance with 310 CMR 80.43.

(b) A single-walled steel tank that is temporarily out-of-service on August 7, 2017, shall comply with the requirements at 310 CMR 80.15.

(4) When a UST system is taken temporarily out-of-service, the Owner or Operator shall comply only with the following requirements of 310 CMR 80.00 during the entire time period the UST system is temporarily out-of-service:

(a) Remove all solid and liquid material from the UST system and have the UST system rendered inert in accordance with 310 CMR 80.47;

The Owner or Operator shall manage the solid and liquid material removed from the UST system in accordance with all applicable federal, state and local laws and regulations;

(b) Cap, lock and secure all fill lines and fill pipes against tampering;

(c) Keep the vent lines open and operable for the entire period that the UST system is temporarily out-of-service;

(d) Continue operation and maintenance of corrosion protection in accordance with 310 CMR 80.29, if applicable;

(e) Continue to comply with the third-party inspection requirements in accordance with 310 CMR 80.49;

(f) Comply with the Compliance Certification requirements for temporarily out-of-service UST systems in accordance with 310 CMR 80.34(3); and

(g) Maintain financial responsibility in accordance with 310 CMR 80.51 through 80.63.

(5) Prior to returning the UST system to service, the Owner or Operator shall have the tank and piping tightness tested and shall ensure that the UST system components are calibrated and operating in accordance with the manufacturer's specifications.

(6) Within 30 days after returning the UST system to service, the Owner or Operator shall notify the Department in a format specified by the Department in accordance with 310 CMR

80.23(2)(c).

80.42: continued

(7) Owners or Operators shall demonstrate compliance with the requirements of temporarily out-of-service by maintaining records/documentation in accordance with 310 CMR 80.36(3).

80.43: Requirements for Removal and Permanent Closure In-place

(1) Owners and Operators shall comply with the requirements in 310 CMR 80.43.

(2) Requirements for Removal of a UST System.

(a) Prior to removal of a UST system, the Owner or Operator shall have all the solid and liquid material removed from the UST system, in accordance with 310 CMR 80.47, have the UST system rendered inert and shall secure all openings. The Owner or Operator shall manage all solid and liquid material removed from the UST system in accordance with all applicable federal, state and local laws and regulations.

(b) The Owner or Operator shall conduct an assessment in accordance with 310 CMR 80.43(4) within 24 hours after the UST system is removed, but prior to backfill of the excavation area.

(c) The Owner shall notify the Department, in a format specified by the Department, that the UST system was removed, within 30 days of removal in accordance with 310 CMR 80.23(2)(d).

(3) Requirements for Permanent Closure-in-place.

(a) No Owner or Operator shall permanently close a UST system in-place unless it is located under a building and cannot be removed from the ground without first removing the building, or is so located that it cannot be removed from the ground without endangering the structural integrity of another UST system, structure, underground piping or underground utilities.

1. Such a determination shall be made by a registered professional civil or structural engineer, and shall be submitted to the Department with supporting documentation. The determination shall include, at a minimum, sketches, photos and a detailed, written description of why the UST system should be closed-in-place instead of removed.

2. If the Department does not notify the Owner within 30 days, the Owner or Operator may proceed with the closure-in-place if it has complied with 310 CMR 80.43(3)(a)1.

3. The Owner or Operator shall have all solid and liquid material removed from the tank, in accordance with 310 CMR 80.47 and shall have the tank filled with clean sand, concrete slurry mix or another inert material if such other material is approved by the Department in writing prior to filling the tank. The Owner or Operator shall manage the solid and liquid material removed from the tank in accordance with all applicable federal, state and local laws and regulations.

(b) Before permanent closure-in-place is complete, the Owner or Operator shall conduct an assessment in accordance with 310 CMR 80.43(4).

(c) The Owner shall notify the Department, in a format specified by the Department that the UST system was closed-in-place, within 30 days of the UST system being filled in accordance with 310 CMR 80.23(2)(e). A copy of the assessment in 310 CMR 80.43(4) shall be submitted with said form.

(4) Assessment.

(a) For assessments conducted in accordance with 310 CMR 80.41 and 80.43, the Owner or Operator shall measure for the presence of a release of regulated substances where contamination is most likely to be present in the subsurface. To determine sampling location(s), sample types, field screening techniques and analytical methods, the Owner or Operator shall consider the regulated substance stored in the UST system and its characteristics; the type of backfill in the area; the depth to groundwater and direction of ground water flow, the distance to surface water bodies. and any other factors appropriate for identifying the presence of a release.

(b) A photo ionization detector (PID) or flame ionization detector (FID) shall be employed

in the field to detect for the presence of a release, if the regulated substance can be detected by a PID or FID.

80.43: continued

(c) If the Owner or Operator obtains knowledge of a release, the Owner or Operator shall comply with the notification requirements contained in 310 CMR 40.0300: *Notification of Releases and Threats of Release of Oil and Hazardous Materials; Identification and Listing of Oil and Hazardous Materials*, as applicable.

(5) The Department may require permanent closure of a UST system at any time that it determines the UST system poses a threat to public health, safety or the environment.

(6) Owners and Operators shall demonstrate compliance with the requirement for permanent closure by maintaining records/documentation in accordance with 310 CMR 80.36(3).

(7) The Owner or Operator may need to obtain a permit from the fire department in which the UST system is located for closure or relocation of a UST system pursuant to M.G.L. c. 21O, § 1. It is the responsibility of the Owner or Operator to obtain any required permit(s).

80.44: Requirements for Out-of-use UST Systems

If a UST system is out-of-use, the Owner or Operator shall permanently close the UST system in accordance with 310 CMR 80.43 unless the UST system is brought back into service under 310 CMR 80.45.

80.45: Requirements for Bringing Out-of-use UST Systems Back Into Service

(1) A new Owner that acquires a UST system that is out-of-use may bring the out-of-use UST system back into service within 90 days after the acquisition is final, if the UST system and UST components comply with the most current tank, piping, leak detection, sump, spill bucket, overfill protection and corrosion protection standards in 310 CMR 80.00 and the Owner:

(a) Determines that all the UST system components are operable;
(b) Passes a tightness test in accordance with 310 CMR 80.32;
(c) Has a third-party inspection performed in accordance with 310 CMR 80.49(6); and
(d) Performs any necessary repairs in accordance with 310 CMR 80.33.

(2) After the Owner has completed the requirements in accordance with 310 CMR 80.45(1), the Owner shall notify the Department that the UST system meets the requirements of 310 CMR 80.45(1) when the Owner registers the UST system in accordance with 310 CMR 80.23(1).

80.46: Requirements for Previously Closed-in-place UST Systems

If, at the sole discretion of the Department, the Department determines that a tank or UST system permanently closed-in-place before December 22, 1988, may pose a current or potential threat to human health and the environment, the Owner or Operator of such a tank or UST system shall upon notice from the Department conduct a site assessment in accordance with 310 CMR 80.43(4).

80.47: Standards for Cleaning and Closure

(1) The Owner or Operator shall follow the applicable cleaning and closure procedures to comply with 310 CMR 80.41(4)(a), 80.42(4)(a) and 80.43(2)(a) and (3)(a)3.:

(a) American Petroleum Institute (API) Recommended Practice 1604, 3rd Edition, March 1996 *Closure of Underground Petroleum Storage Tanks*, Sections 1, 3, and 4.1 through 4.4; and

(b) United States Environmental Protection Agency standards for RCRA hazardous debris found at 40 CFR 268.45.

DELIVERY PROHIBITION

80.48: Delivery Prohibition

(1) The Department shall issue a delivery prohibition order to an Owner or Operator of a UST system after written notice to the Owner or Operator if one or more of the following conditions exist:

80.48: continued

(a) Failure to install spill prevention equipment in accordance with 310 CMR 80.21(1);
(b) Failure to install overfill protection equipment in accordance with 310 CMR 80.21(2);
(c) Failure to install leak detection equipment in accordance with 310 CMR 80.19; or
(d) Failure to install corrosion protection equipment in accordance with 310 CMR 80.22.

(2) Upon learning of any of the conditions in 310 CMR 80.48(1)(a) through (d), the Owner or Operator shall immediately, but in no event more than 24 hours after learning of the conditions in 310 CMR 80.48(1)(a) through (d), inform the Department of the violation.

(3) The Department may issue a delivery prohibition order to an Owner or Operator of a UST system after written notice to the Owner or Operator if one or more of the following conditions exist:
(a) Spill prevention is not operating in accordance with 310 CMR 80.28(1) and (2);
(b) Overfill protection is not operating in accordance with 310 CMR 80.28(1) and (3);
(c) Leak detection equipment is not operating in accordance with 310 CMR 80.26;
(d) Corrosion protection equipment is not operating in accordance with 310 CMR 80.29;
(e) The Owner or Operator fail to demonstrate or maintain financial responsibility in accordance with 310 CMR 80.51 through 80.63; or
(f) Any other violation of 310 CMR 80.00 that poses a significant threat to public health, safety or the environment, as determined by the Department at its sole discretion.

(4) After written notice to the Owner or Operator, the delivery prohibition shall become immediately effective when the Department serves a written delivery prohibition order in accordance with 310 CMR 80.50(3) prohibiting the delivery of product to the UST system(s). The delivery prohibition order shall be issued no sooner than 24 hours after written notice to the Owner or Operator.

(5) After the delivery prohibition order is served, the Department shall have the authority to lock the fill pipe and affix a red tag to the fill pipe of the UST system(s) that are subject to said order.

(6) No person shall deliver, cause to be delivered, accept for delivery or cause to be accepted for delivery any regulated substance to a UST system that is subject to a delivery prohibition order that has been served and has a red tag affixed to the fill pipe.

(7) No person shall remove, deface, alter or otherwise tamper with the lock or red tag affixed to a UST system or UST component, except in accordance with 310 CMR 80.48(10).

(8) Upon notification from the Owner or Operator that the violations identified in the delivery prohibition order have been corrected, the Department shall, confirm that the violations have been corrected.

(9) If the Department confirms that the violation(s) have been corrected, the Department shall rescind the delivery prohibition order in writing and remove the lock and red tag from the UST system.

(10) In the event that the Department does not inspect a UST system within 24-hours of receipt of the notification from the Owner or Operator that the violation(s) identified in the delivery prohibition order have been corrected, a third-party inspector may remove the 'red tag' after providing a certification to the Department, in a format specified by the Department, that the violation(s) has been corrected. Both the Owner or Operator and the third-party inspector shall sign the certification prior to submission to the Department.

(11) Notwithstanding a delivery prohibition order, the Department may authorize the delivery of product to a UST system that has received a delivery prohibition order in

emergency situations, or for compliance testing purposes, as determined by the Department in its sole discretion.

80.48: continued

(12) Any person subject to a delivery prohibition order shall have the right to an adjudicatory appeal in accordance with 310 CMR 80.50. An adjudicatory appeal shall not stay the effectiveness of a delivery prohibition order.

THIRD-PARTY INSPECTIONS

80.49: Third-party Inspections

(1) The third-party inspection program operates on a three year cycle that began on August 8, 2007. Every Owner and Operator was required to have every UST system inspected by a third-party inspector by August 8, 2010, and have every UST system inspected by a third-party inspector every three years thereafter.

(2) The Owner and Operator shall have all UST systems at each UST facility inspected by a third-party inspector and submit the third-party inspection report to the Department on or before the UST facility compliance date established in 310 CMR 80.49(2)(a) through (g).

(a) The date the third-party inspection was performed between August 8, 2007 and August 8, 2010 establishes the UST facility compliance date for the triennial third-party inspection.

(b) The Owner or Operator shall submit a truthful, accurate and complete third-party inspection report that contains all the information required in 310 CMR 80.49(7) on or before the UST facility compliance date every three years until the UST system is permanently closed in place or removed in accordance with 310 CMR 80.43.

(c) The Owner or Operator shall submit the third-party inspection report to the Department no later than 60 days after the commencement of the third-party inspection in accordance with 310 CMR 80.49(7)(c)1., 2., or 3.

(d) A late submittal shall not alter the UST facility compliance date for future third-party submittals, unless the Department changes the UST facility compliance date in accordance with 310 CMR 80.49(2)(g).

(e) An early submittal shall establish the new UST facility compliance date for future submittals, unless the Department changes the UST facility compliance date in accordance with 310 CMR 80.49(2)(g).

(f) If an Owner registers a new UST facility after January 2, 2015, the Department will assign the UST facility a UST facility compliance date. If an Owner or Operator installs a new or replacement UST system or tank at an existing UST facility, such installation shall not alter the UST facility compliance date.

(g) The Department may change the UST facility compliance date for any UST facility provided the Department gives the Owner and Operator 90 days prior written notice. The Department's decision to change the UST facility compliance date shall not be subject to
M.G.L. c. 30A, or any other law governing adjudicatory proceedings.

(3) Effective 12 months after the Department makes the third-party inspector examination available for eligible individuals to take pursuant to 310 CMR 80.49(4)(b), third-party inspections shall only be performed by third-party inspectors certified in accordance with 310 CMR 80.49(4).

(4) Eligibility and Certification Requirements for a Third-party Inspector.

(a) An individual who meets the requirements of 310 CMR 80.49(4)(b) through (d) shall submit an application and accompanying documentation to the Department, in a format specified by the Department, to demonstrate the individual's eligibility to be a certified third- party inspector.

1. If the Department determines the individual meets the eligibility requirements in 310 CMR 80.49(4)(b) through (d), the individual shall be issued a third-party inspection number and shall be certified as a third-party inspector.

a. All certifications shall be for a fixed term of five years from the date the Department issued the third-party inspection number and certification, unless suspended or revoked.

b. In order to renew a certification, the third-party inspector shall re-apply at least 90 days before the certification expires in accordance with 310 CMR 80.49(4)(a).

i. To renew a certification, the third-party inspector shall demonstrate he or she is in compliance with the requirements at 310 CMR 80.49(4)(e).

80.49: continued

ii. Any certification which is scheduled to expire shall be automatically extended if the third-party inspector files an application for a new certification at least 90 days before the scheduled expiration date. This automatic extension shall remain in effect until:

(i) The Department issues a new certification to the third-party inspector; or

(ii) The Department denies the application for a new certification and all opportunities for adjudicatory hearing in accordance with M.G.L. c. 30A,

§ 13, before the Department have been exhausted, in which case the extended certification shall be deemed expired; or

(iii) The Department suspends or revokes the extended certification and all opportunities for adjudicatory hearing, if any, in accordance with

M.G.L. c. 30A, § 13, before the Department have been exhausted.

2. If the Department determines the individual does not meet the certification requirements in 310 CMR 80.49(4)(b) through (d), and (e) if applicable, the individual's application shall be denied in writing.

a. Upon receiving a denial from the Department, the individual may submit a letter to the Department requesting that the Department reconsider its decision. Said letter shall be postmarked or delivered to the Department within 30 days of the date of the denial letter from the Department.

b. The Department shall respond to the individual in writing within 30 days of receiving the request for reconsideration.

c. If, upon reconsideration, the Department determines the individual does not meet the certification requirements, it shall notify the individual in writing and the individual may file an administrative appeal of the Department's decision in accordance with 310 CMR 80.50.

d. An individual may only file such a request for adjudicatory hearing in accordance with 310 CMR 80.50 if the individual timely requests reconsideration of the denial in accordance with 310 CMR 80.49(4)(a)2.a. and is denied after reconsideration.

3. Upon receipt of a third-party inspector number from the Department, the third-party inspector is certified and may conduct third-party inspections provided the third-party inspector meets the performance standards in accordance with 310 CMR 80.49(5).

(b) In order to be certified as a third-party inspector, an eligible individual shall take and pass a Department required third-party inspection examination.

1. The examination shall test eligible individuals on their knowledge of 310 CMR 80.00.

2. The examination may have a field component.

(c) In order to be eligible to take the third-party inspector examination, an individual shall:

1. Possess at least five years of experience in the field of UST installation and/or operation and maintenance, of which two years may be substituted by a bachelors or associates degree in science or engineering, demonstrated through a resume or other information satisfactory to the Department; and

2. Meet one of the following additional criteria:

a. Participate in at least ten inspections with a certified third-party inspector to obtain hands-on, practical experience with third-party inspections. Said inspections shall be conducted within the three years immediately prior to submitting an application in accordance with 310 CMR 80.49(4)(a); or

b. Hold a third-party inspector certification from another state, and have performed a minimum of ten third-party inspections in that state within the past three years.

(d) A third-party inspector who is registered as of January 2, 2015 may take the examination in accordance with 310 CMR 80.49(4)(b) without meeting the requirements of 310 CMR 80.49(4)(c), provided that:

1. The third-party inspector has conducted at least ten third-party inspections since August 8, 2007; and

2. The third-party inspector takes and passes the Department required examination within two years after the Department makes the third-party inspector examination available for eligible individuals to take pursuant to 310 CMR 80.49(4)(b).

(e) In order to maintain certification, the third-party inspector shall complete annual training provided by the Department.

80.49: continued

(f) A third-party inspector shall maintain records, in hard copy or electronically, demonstrating compliance with 310 CMR 80.49(4)(b) through (e) until the individual is no longer a certified third-party inspector. Upon request from the Department, the third-party inspector shall make the documentation available to the Department as soon as possible, but in no event more than seven business days after the request.

(5) Performance Standards.

(a) A third-party inspector shall have the continuing dutyto meet the following performance standards:

1. Effective 12 months after the third-party examination becomes available pursuant to 310 CMR 80.49(4)(b), be a certified third-party inspector before conducting any third-party inspections. Prior to that date, third-party inspectors registered with the Department may conduct third-party inspections.

2. Not transfer or assign the certification to any other individual.

3. Personally conduct and complete third-party inspections they sign and certify.

4. Conduct and complete third-party inspections in accordance with 310 CMR 80.49(7)(a).

5. Provide an accurate and complete third-party inspection report.

6. Not make any false, inaccurate or misleading statements in the third-party inspection report.

7. Provide any information regarding third-party inspections to the Department upon request, as soon as possible, but in no event more than seven business days following the request.

8. If a third-party inspector identifies one or more conditions in accordance with 310 CMR 80.48(1), at a UST system the third-party inspector shall:

a. Immediately, but in no event later than 24 hours after obtaining knowledge of the condition, advise the Owner or Operator of the one or more conditions described at 310 CMR 80.48(1) and the Owner or Operator's obligation to notify the Department of the condition(s) in accordance with 310 CMR 80.48(2); and

b. Notify the Department of the violation no later than 48 hours after informing the Owner or Operator, unless the third-party inspector receives written confirmation from the Owner or Operator that it notified the Department.

(6) Prohibitions. At the time of a third-party inspection and for the year immediately preceding the third-party inspection, a third-party inspector shall not be:

(a) An Owner or Operator of the UST system the third-party inspector is inspecting;

(b) The spouse, parent, child, brother or sister by blood, marriage or adoption of an Owner or Operator of the UST system who has performed work on the UST system, or the spouse, parent, child, brother or sister by blood, marriage or adoption of an employee or contractor of the Owner or Operator of the UST system who has performed work on the UST system that the third-party inspector is inspecting;

(c) An employee of the UST facility he or she is inspecting or an individual who has performed work at the UST facility s/he is inspecting, under contract or otherwise, other than a contractor who is the third-party inspector;

(d) The designated Class A, B or C Operator of the UST system the third-party inspector is inspecting; or

(e) A person, or employee of a person, having any financial interest in or daily on-site responsibility for the UST system that the third-party inspector is inspecting.

(7) Inspection Requirements.

(a) A third-party inspector shall conduct a third-party inspection in accordance with 310 CMR 80.49(7)(a) through observation during the inspection and a review of the records compiled and maintained since the most recent third-party inspection, and shall

determine, at a minimum, the following for each UST system and UST components:

1. Whether the Owner or Operator submitted required documentation to the Department in accordance with 310 CMR 80.23.

2. Whether leak detection has been installed, tested, maintained and is fully operational in accordance with 310 CMR 80.19 and 80.26 and the manufacturer's specifications.

80.49: continued

3. Whether corrosion protection, if applicable, has been installed, tested, maintained, and is fully operational in accordance with 310 CMR 80.22 and 80.29 and the manufacturer's specifications.

4. Whether turbine, intermediate and dispenser sumps have been installed, inspected, tested and maintained in accordance with 310 CMR 80.20 and 80.27 and the manufacturer's specifications.

5. Whether spill buckets have been installed, inspected, tested and maintained in accordance with 310 CMR 80.21(1) and 80.28(1) and (2) and the manufacturer's specifications.

6. Whether overfill protection has been installed, inspected, tested, maintained, and is fully operational in accordance with 310 CMR 80.21(2) and 80.28(1) and (3) and the manufacturer's specifications.

7. Whether inventory monitoring, if applicable, has been performed and recorded in accordance with 310 CMR 80.31.

8. Whether tightness tests were conducted in accordance with 310 CMR 80.32.

9. Whether compliance certification forms have been completed and submitted to the Department in accordance with 310 CMR 80.34.

10. Whether repairs and replacements have been conducted in accordance with 310 CMR 80.33.

11. Whether the emergency response postings and written procedures are in compliance in accordance with 310 CMR 80.25.

12. Whether alarms have been responded to and the responses documented in accordance with 310 CMR 80.24(3).

13. Whether visual and/or olfactory observations indicate the presence of leakage or release related to the UST system or UST components.

14. Whether UST systems that changed product in the UST system complied with 310 CMR 80.41.

15. Whether financial responsibility is current and documented in accordance with 310 CMR 80.51 through 80.63.

16. Whether UST systems that are temporarily out-of-service are being serviced and documented in accordance with 310 CMR 80.42.

17. Whether UST systems that were permanently closed were properly documented in accordance with 310 CMR 80.43.

18. Whether documentation for Class A, B and C Operators is current and documented in accordance with 310 CMR 80.37.

19. Whether required records are kept in accordance with 310 CMR 80.36.

(b) The Owner or Operator shall provide the third-party inspector with all necessary records to complete the inspection in accordance with 310 CMR 80.49(7)(a).

(c) A third-party inspector shall record the results of a third-party inspection on a third-party inspection report specified by the Department, shall sign and date such report in accordance with the certification at 310 CMR 80.49(7)(d), and shall provide the report to the Owner or Operator.

1. If the third-party inspection report does not identify any deficiencies, the Owner or Operator shall sign and date the report in accordance with the certification at 310 CMR 80.49(7)(e), and shall submit the third-party inspection report to the Department on or before the UST facility compliance date in accordance with 310 CMR 80.49(7)(f).

2. If the third-party inspection report identifies deficiencies, the Owner or Operator shall correct any deficiencies noted in the report, in accordance with 310 CMR 80.00, sign and date such report in accordance with the certification at 310 CMR 80.49(7)(e), and submit the report to the Department on or before the UST facility compliance date.

a. Before the third-party inspection report is submitted, the Owner or Operator

shall have the third-party inspector determine whether each deficiency is corrected and the third-party inspector shall record their findings on the third-party inspection report.

b. A third-party inspector shall document the findings of the facility's re-inspection in the "Re-inspection" section of the third-party inspection report, sign and date the report in accordance with the certification at 310 CMR 80.49(7)(d), and provide the third-party inspection report to the Owner or Operator.

80.49: continued

c. The Owner or Operator shall sign and date the third-party inspection report in accordance with the certification at 310 CMR 80.49(7)(e), and submit the third-party inspection report to the Department on or before the UST facility compliance date in accordance with 310 CMR 80.49(7)(f).

3. In the event that the Owner or Operator is unable to correct the deficiencies identified in the third-party inspection report by the UST facility compliance date, the Owner or Operator shall sign and date the report in accordance with the certification at 310 CMR 80.49(7)(e) and submit the third-party inspection report with a return to compliance (RTC) plan to the Department, in a format specified by the Department, on or before the UST facility compliance date in accordance with 310 CMR 80.49(7)(f).

a. The RTC plan shall:

i. Identify each deficiency that was not corrected;

ii. Detail what the Owner or Operator will do to RTC with each identified deficiency; and

iii. Include the following statement: "I, [name of Owner or Operator], attest under the penalties of law: 1. that I have personally examined and am familiar with the information contained in this return to compliance plan, including any and all documents accompanying this certification statement; 2. that, based on my inquiry of those individuals responsible for obtaining the information, the information contained in this submittal is to the best of my knowledge, true, accurate, and complete; and 3. that I am fully authorized to make this attestation on behalf of this UST system or facility. I am aware that there are significant penalties, including, but not limited to possible fines and imprisonment, for submitting false, inaccurate, or incomplete information."

b. The deficiencies identified in the RTC plan shall be corrected and the Owner or Operator shall submit a RTC completion report to the Department, in a format specified by the Department, within 30 days of the submittal of the third-party inspection report. If the RTC plan documents a reasonable basis for a proposed alternative completion date by which the deficiencies will be corrected and the required RTC completion report submitted, the RTC completion report shall be submitted by this alternative completion date.

c. If, upon review, the Department determines that the proposed alternative completion date is not reasonable, the Department shall notify the Owner or Operator that deficiencies shall be corrected and the RTC completion report submitted to the Department by a date earlier than the proposed alternative date.

d. Before the RTC completion report is submitted, the Owner or Operator shall have a third-party inspector determine whether each deficiency is corrected and the third-party inspector shall record their findings on the RTC completion report.

e. The third-party inspector shall sign and date the RTC completion report in accordance with the certification at 310 CMR 80.49(7)(d), and provide the RTC completion report to the Owner or Operator.

f. The Owner or Operator shall sign and date the RTC completion report in accordance with the certification at 310 CMR 80.49(7)(e), and submit the RTC completion report to the Department on or before the RTC completion date.

(d) A third-party inspector who performs a third-party inspection shall sign and date the third-party inspection report with the following certification:

"I attest under the penalties of law: (i) that I am a certified third-party inspector in compliance with 310 CMR 80.49(4); (ii) that I personally performed this inspection of the UST facility in accordance with the 310 CMR 80.49(7), and having fully completed this report, believe the contents of this report and all attachments to be

true and accurate as of the time of the inspection; and (iii) that all the information provided to me by the Owner and Operator necessary to complete this report is, to the best of my knowledge, true, accurate, and complete. I am aware that there are significant penalties including, but not limited to, possible fines and imprisonment for submitting false, inaccurate, or incomplete information."

(e) The Owner or Operator shall sign, date and submit a third-party inspection report to the Department with the following certification:

80.49: continued

"I attest under the penalties of law: (i) that I am the Owner or Operator of this UST facility; (ii) that I have personally read this inspection report and understand the contents, including all attachments, deficiencies and recommendations; (iii) that all the information provided by me to the third-party inspector is, to the best of my knowledge, true, accurate, and complete; (iv) that I have not altered, added or deleted any information in this inspection report; and (v) that I am fully authorized to make this attestation on behalf of this UST facility. I am aware that there are significant penalties including, but not limited to, possible fines and imprisonment for submitting false, inaccurate, or incomplete information."

(f) The Owner or Operator shall ensure that the third-party inspection report is hand delivered, postmarked or submitted electronically to the Department by the UST facility compliance date set forth in 310 CMR 80.49(2).

(g) The Owner and Operator shall not alter or delete any information in the third-party inspection report.

(8) Nothing contained in 310 CMR 80.49 shall be construed or interpreted to limit the authority of the Department to conduct inspections of UST systems or facilities or to take any enforcement or other actions with respect to such systems and facilities as is authorized by 310 CMR 80.00 or by any other statute, regulation or other legal authority.

(9) Without limitation, if the Department determines that a third-party inspector has not complied with any provision of 310 CMR 80.49, the Department may require that the third-party inspector re-take the examination in accordance with 310 CMR 80.49(4)(d).

(10) In addition to taking enforcement against a third-party inspector in accordance with 310 CMR 80.50, the Department may deny, suspend or revoke the application or certification of anyindividual or third-partyinspector if the Department determines that the individual or third party inspector has not complied with any provision of 310 CMR 80.48(10) or 80.49. Such action by the Department shall be subject to opportunity for an adjudicatory hearing pursuant to 310 CMR 80.50(5). In an adjudicatory hearing held pursuant to 310 CMR 80.50, the only issue to be adjudicated is whether the Department's decision to deny, suspend or revoke the application or certification of an individual or third party inspector was reasonable in light of the particular facts and circumstances available to the Department at the time of its decision.

(11) Any individual whose application is denied or any third-party inspector whose certification is revoked shall be barred from re-applying to become a third-party inspector for up to two years.

ENFORCEMENT AND APPEALS

80.50: Enforcement and Appeals

(1) General. Any failure to comply with M.G.L. c. 21O, 310 CMR 80.00, or the terms and conditions of any order, permit, authorization, determination, certification, prohibition or approval issued under 310 CMR 80.00 shall constitute a violation of M.G.L. c. 21O and 310 CMR 80.00. Nothing in 310 CMR 80.00, or in any order issued pursuant thereto, shall be construed to limit any right of the Department to take enforcement action pursuant to any other authority.

(2) Action by the Department. Whenever the Department has cause to believe that a violation has occurred, it may:

(a) Order the Owner and Operator of the UST system or facility, or any other person

responsible for the violation, to cease immediately or at a specified date, all illegal activity and to comply with the provisions of M.G.L. c. 21O, 310 CMR 80.00, or any permit, authorization, determination, registration, certification or approval issued thereunder. Any person who or which is the subject of said order has the right to request an adjudicatory hearing in accordance with the terms of 310 CMR 80.50(5);

(b) Issue an order to the Owner and Operator of the UST system or facility, in accordance with 310 CMR 80.48. Any person who or which is the subject of said order has the right to request an adjudicatory hearing in accordance with the terms of 310 CMR80.50(5);

80.50: continued

(c) Issue a notice of noncompliance pursuant to M.G.L. c. 21A, § 16 and 310 CMR 5.00: *Administrative Penalty*, which is not subject to the right to request an adjudicatory hearing in accordance with the terms of 310 CMR 5.00: *Administrative Penalty*;

(d) Issue a penalty assessment notice pursuant to M.G.L. c. 21A, § 16 and 310 CMR 5.00: *Administrative Penalty*, which is subject to the right to request an adjudicatory hearing in accordance with the terms of 310 CMR 5.00: *Administrative Penalty*; or

(e) Take such other action provided by 310 CMR 80.00 or other applicable statutory or regulatory authority as the Department deems appropriate.

(3) Service of Administrative Orders. Service of an order issued in accordance with M.G.L. c. 21O or 310 CMR 80.00 by the Department shall be according to one of the following procedures except for processes, notices, and orders issued in the course of an adjudicatory hearing which are governed by the provisions of 310 CMR 1.00: *Adjudicatory Proceedings*:

(a) Service of an order is complete when it is delivered in-hand by an employee or agent of the Department to the person to be served or to any officer, employee, or agent of that person. The fact and date of service is established by the return receipt or affidavit of the person making service.

(b) Service of an order when made by any form of mail requiring the return of a receipt signed by the person to be served is complete upon delivery to the person or to any officer, employee, or agent of that person. The fact and date of service is established by the returned receipt.

(c) The Department may make service of an order in an alternative manner, including any form of electronic mail, facsimile or other electronic communications, national overnight carrier, regular mail to the last known address, publication in a newspaper of general circulation, or other method of notification that is reasonably calculated to give notice of the order to the person to be served. The Department may use such alternative or substitute methods of service when the person to be served has declined to accept receipt by the other methods of service specified in 310 CMR 80.50(3)(a) and (b). The fact of service in such cases is established by such records as may be available. The date of service shall be the date on which the Department initiates electronic transmission, the date of publication, one day after the date of overnight mailing or three days after the date of regular mailing.

(4) Service of Other Enforcement Documents. Service of Notices of Noncompliance, Penalty Assessment Notices and any other enforcement document shall be in accordance with M.G.L.
c. 21A, § 16 and 310 CMR 5.00: *Administrative Penalty*.

(5) Right to Adjudicatory Hearing.

(a) The following parties shall have the right to an adjudicatory hearing:

1. A person who is the subject of an order issued pursuant to 310 CMR 80.50(2)(a) or (b) has the right to request a hearing on the terms and issuance of such order.

2. An individual whose application to be certified as a third-party inspector is denied by the Department has the right to request a hearing on such denial in accordance with 310 CMR 80.49(4)(a)2.c. and d.

3. A third-party inspector whose certification is denied, suspended or revoked by the Department has the right to request a hearing on such denial, suspension or revocation in accordance with 310 CMR 80.49(10).

(b) Any right to an adjudicatory hearing concerning assessment of a civil administrative

penalty and the procedures for requesting such hearing shall be governed by the provisions of 310 CMR 5.00: *Administrative Penalty*.

(6) Waiver of Right to Adjudicatory Hearing.

(a) Any person who has the right to an adjudicatory hearing in accordance with 310 CMR 80.50(2), shall be deemed to have waived their right to an adjudicatory hearing, unless the person delivers to the Department a request for an adjudicatory hearing in writing within 21 days of the date of issuance in accordance with 310 CMR 80.50(6)(c) that complies with the requirements for content of filings set forth in 310 CMR 1.01(4): *Filings* and that is filed in accordance with the methods and procedures set forth in 310 CMR 1.01(3)(a): *Timely Filing*.

80.50: continued

(b) The request for an adjudicatory hearing shall be submitted to the Department in the manner specified in the appealable document.

(c) The date of issuance of an order, denial, suspension or revocation shall be:

1. The date on which the Department hand delivers the document;
2. The date of receipt if the Department sends the document by certified mail;
3. Three days after the Department initiates transmission of the document by other methods of notification specified in 310 CMR 80.50(3); or
4. Three days after the Department publishes the document in a newspaper of general circulation.

FINANCIAL RESPONSIBILITY

80.51: Definitions

The following definitions shall apply only to 310 CMR 80.51 through 80.63. Note: The definitions in 310 CMR 80.51 are intended to assist in the understanding of 310 CMR 80.00 and are not intended either to limit the meaning of the terms in a way that conflict with standard insurance usage or to prevent the use of other standard insurance terms in place of defined terms.

Accidental Release means any sudden or nonsudden release of a regulated substance from a UST system that results in a need for corrective action and/or compensation for bodily injury or property damage neither expected nor intended by the tank Owner or Operator.

Bodily Injury means substantial impairment of the physical condition including, but not limited to, any burn, fracture of any bone, subdural hematoma, injury to any internal organ, or any injury which occurs as the result of repeated harm to any bodily function or organ, including human skin, however, Bodily Injury shall not include those liabilities which, consistent with standard insurance industrypractices, are excluded from coverage in liability insurance policies for bodily injury.

Chief Financial Officer means, in the case of local government Owners and Operators, the individual with the overall authority and responsibility for the collection, disbursement, and use of funds by the local government.

Controlling Interest means direct Ownership of at least 50% of the voting stock of an entity.

Financial Reporting Year means the latest consecutive 12-month period for which any of the following reports used to support a financial test is prepared:

(a) a 10-K report submitted to the SEC;

(b) an annual report of tangible net worth submitted to Dun and Bradstreet; or

(c) annual reports submitted to the Energy Information Administration or the Rural Electrification Administration.

Financial Reporting Year may thus comprise a fiscal or a calendar year period.

General Purpose Local Government means a local government entity that does not perform a single function or limited range of functions. A General Purpose Local Government, includes, but is not limited to, municipalities, counties, townships, towns, villages and parishes.

Guarantor means any person, other than a person liable pursuant to M.G.L. c. 21E, § 5, who provides evidence of financial responsibility pursuant to M.G.L. c. 21O.

Legal Defense Cost means any expense that an Owner or Operator or provider of financial assurance incurs in defending against claims or actions brought:

(a) By the Environmental Protection Agency (EPA) or the Commonwealth to require corrective action or to recover the costs of corrective action;

(b) By or on behalf of a third party for bodily injury or property damage caused by an accidental release; or

(c) By any person to enforce the terms of a financial assurance mechanism.

80.51: continued

Local Government means:

(a) Cities, municipalities and towns, separately chartered and operated special districts (including, but not limited to. local government public transit systems and redevelopment authorities), and independent school districts authorized as governmental bodies by state charter or constitution in the Commonwealth; and

(b) Special districts and independent school districts established by cities, municipalities or towns, and other general purpose governments to provide essential services.

Occurrence means an event, including continuous or repeated exposure to conditions, which results in a release from a UST system.

Property Damage means injury to real or personal property. Property Damage shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage shall not include corrective action associated with releases from tanks which are covered by the policy.

Provider of Financial Assurance means an entity that provides financial assurance to an Owner or Operator of a UST system through one of the mechanisms listed in 310 CMR 80.54(1) through (11), including a guarantor, local government guarantor, insurer, risk retention group, surety, issuer of a letter of credit, the Underground Storage Tank Petroleum Product Cleanup Fund, or the Commonwealth.

Substantial Business Relationship means the extent of a business relationship necessary under Massachusetts state law to make a guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from and depends on existing economic transactions between the guarantor and the Owner or Operator.

Substantial Governmental Relationship means the extent of a governmental relationship necessary under Massachusetts state law to make an added guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from a clear commonality of interest in the event of a UST release such as coterminous boundaries, overlapping constituencies, common ground-water aquifer, or other relationship other than monetary compensation that provides a motivation for the guarantor to provide a guarantee.

Termination means only those changes that could result in a gap in coverage such as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

80.52: Requirements for Amount and Scope of Financial Responsibility

(1) All Owners or Operators of UST systems shall maintain and demonstrate financial responsibility for taking corrective action and for compensating third parties for bodilyinjuryand property damage caused by accidental releases arising from the operation of UST systems. Failure to maintain and/or demonstrate financial responsibility shall subject the Owner or Operator to enforcement including, but not limited to, delivery prohibition in accordance with 310 CMR 80.48.

(2) An Owner or Operator shall maintain and demonstrate financial responsibility in at least the following per-occurrence amounts:

(a) For Owners and Operators of UST systems that handle an average of more than 10,000 gallons of regulated substance per month based on annual throughput for the previous calendar year: $1 million.
(b) For all other Owners and Operators of UST systems: $500,000.

80.52: continued

(3) An Owner or Operator of UST systems shall maintain and demonstrate financial responsibility for taking corrective action and for compensating third parties for bodilyinjuryand property damage caused by accidental releases arising from the operation of UST systems in at least the following annual aggregate amounts:

(a) For Owners and Operators of 1 to 100 tanks, $1 million; and

(b) For Owners and Operators of 101 or more tanks, $2 million.

(4) The amounts of assurance required under 310 CMR 80.52 excludes legal defense costs.

(5) If an Owner or Operator uses separate mechanisms or separate combinations of mechanisms to satisfy the financial responsibility requirements, the financial mechanisms in total shall be in the full amount specified in 310 CMR 80.52(2) and (3).

(6) If an Owner or Operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different UST systems, the annual aggregate required shall be based on the number of tanks covered by each such separate mechanism or combination of mechanisms.

(7) An Owner or Operator shall review the amount of their annual aggregate coverage whenever additional tanks are acquired or installed. If the number of tanks for which assurance must be provided exceeds 100, the Owner or Operator shall demonstrate financial responsibility in the annual aggregate amount of at least $2 million within 60 days of installing or acquiring the tank(s) that exceeds 100.

(8) The required per-occurrence and annual aggregate coverage amounts do not in any way limit the liability of the Owner and Operator.

80.53: Allowable Mechanisms and Combinations of Mechanisms

(1) An Owner or Operator, including a local government Owner or Operator, may use any one or combination of the mechanisms listed at 310 CMR 80.54(2) through (5) and (10) and (11) to demonstrate financial responsibility for one or more UST systems.

(2) In addition to the mechanisms listed at 310 CMR 80.54(2) through (5) and (10) and (11), an Owner or Operator that is not a local government Owner or Operator of a UST system that stores petroleum may use the mechanism listed at 310 CMR 80.54(1) to demonstrate financial responsibility for one or more UST systems.

(3) In addition to the mechanisms listed at 310 CMR 80.54(2) through (5) and (10) and (11), a local government Owner or Operator may use anyone or combination of the mechanisms listed at 310 CMR 80.54(6) through (9) to demonstrate financial responsibility for one or more UST systems.

80.54: Requirements for Financial Responsibility Mechanisms

(1) Underground Storage Tank Petroleum Product Cleanup Fund.

(a) An Owner or Operator may satisfy the requirements of 310 CMR 80.52 by obtaining coverage from the Underground Storage Tank Petroleum Product Cleanup Fund at
M.G.L. c. 21J, if the Owner or Operator complies with M.G.L. c. 21J and 503 CMR 2.00: *Underground Storage Tank Petroleum Product Cleanup Fund Regulations Implementing M.G.L. c. 21J*.

(2) Insurance and Risk Retention Group Coverage.

(a) An Owner or Operator may satisfy the requirements of 310 CMR 80.52 by obtaining liability insurance that conforms to the requirements of 310 CMR 80.54(2) from a qualified insurer or risk retention group. Such insurance may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.

80.54: continued

(b) Each insurance policy must be amended by an endorsement worded as specified in 310 CMR 80.54(2)(b)1., or evidenced by a certificate of insurance worded as specified in 310 CMR 80.54(2)(b)2., except that instructions in brackets must be replaced with the relevant information and the brackets deleted:

1. Endorsement

Name: [name of each covered location]
_____
_____

Address: [address of each covered location]
_____
_____

Policy Number: _____

Period of Coverage: [current policy period]
_____
_____

Name of [Insurer or Risk Retention Group]:
_____
_____

Address of [Insurer or Risk Retention Group]:
_____
_____

Name of Insured: _____
Address of Insured: _____
_____
_____

Endorsement:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following tanks:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the DEP tank number provided in the registration submitted in accordance with 310 CMR 80.23(1), and the name and address of the facility.]

For [insert: "taking corrective action" and/or "compensating third parties for bodilyinjury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the UST(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different USTs or locations, indicate the amount of coverage for each type of coverage and/or for each UST or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subsections (a) through (e) of this Paragraph two are hereby amended to conform with subsections (a) through (e);

80.54: continued

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this endorsement is attached.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 310 CMR 80.54.

c. The Owner and Operator agrees to furnish to the Massachusetts Department of Environmental Protection (the Department) a signed duplicate original of the policy and all endorsements upon request.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for non-payment of premium or misrepresentation by the insured, shall be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of ten days after a copy of such written notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in 310 CMR 80.54(2)(b)1. and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states"].

[Signature of authorized representative of Insurer or Risk Retention Group]

[Name of person signing]

[Title of person signing], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

2. Certificate of Insurance.

Name: [name of each covered location]

_____

_____

Address: [address of each covered location]

_____

_____

Policy Number:_____

Endorsement (if applicable):_____

Period of Coverage: [current policy period]

_____

Name of [Insurer or Risk Retention Group]:

_____

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80.54: continued

Address of [Insurer or Risk Retention Group]:

_____

_____

Name of Insured: _____

Address of Insured:

_____

_____

_____

Certification:

1. [Name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], as identified above, hereby certifies that it has issued liability insurance covering the following UST(s):

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the DEP tank number provided in the registration submitted in accordance with 310 CMR 80.23(1) and the name and address of the facility.]

For [insert: "taking corrective action" and/or "compensating third parties for bodilyinjury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the UST(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different USTs or locations, indicate the amount of coverage for each type of coverage and/or for each UST or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The ["Insurer" or "Group"] further certifies the following with respect to the insurance described in Paragraph one:

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this certificate applies.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 310 CMR 80.54.

c. The Owner and Operator agree to furnish to the Department a signed duplicate original of the policy and all endorsements upon request.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for non-payment of premium or misrepresentation by the insured, shall be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of ten days after a copy of such written notice is received by the insured.

[Insert for claims-made policies]:

80.54: continued

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in 310 CMR 80.54(2)(b)2. and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in the Commonwealth of Massachusetts"].

[Signature of authorized representative of Insurer or Risk Retention Group]

[Type name]

[Title], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

(c) Each insurance policy shall be issued by an insurer or a risk retention group that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in the Commonwealth of Massachusetts.

(3) Surety Bond.

(a) An Owner or Operator may satisfy the requirements of 310 CMR 80.52 by obtaining a surety bond that conforms to the requirements of 310 CMR 80.54(3). The surety company issuing the bond shall be among those listed as acceptable sureties on federal bonds in the latest Circular 570 of the U.S. Department of the Treasury.

(b) The surety bond must be worded as follows, except that instructions in brackets must be replaced with the relevant information and the brackets deleted:

Performance Bond.

Date bond executed: _____

Effective date: _____

Period of coverage: _____

Principal: [legal name and business address of person obtaining the surety bond, *i.e.* Owner or Operator]

_____

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

_____

State of incorporation (if applicable):

_____

Surety(ies): [name(s) and business address(es)]

_____

Scope of Coverage: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the DEP tank number provided in the registration submitted in accordance with 310 CMR 80.23(1), and the name and address of the facility. List the coverage guaranteed by the bond: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" "arising from operating the tank"].

80.54: continued

Penal sums of bond:
Per occurrence $_____
Annual aggregate $_____
Surety's bond number:_____

Know All Persons by These Presents, that we, the Principal and Surety(ies), hereto are firmly bound to the Massachusetts Department of Environmental Protection (the Department), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required in accordance with 310 CMR 80.51 through 80.63, to provide financial assurance for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the tanks identified above, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully ["take corrective action, in accordance with M.G.L. c. 21E, 310 CMR 40.0000: *Massachusetts Contingency Plan*, other applicable laws and regulations and the Department's instructions for," and/or "compensate injured third parties for bodily injury and property damage caused by" either "sudden" or "nonsudden" or "sudden and nonsudden"] accidental releases arising from operating the tank(s) indentified above, or if the Principal shall provide alternate financial assurance in accordance with 310 CMR 80.57, and obtain the Department's written approval of such assurance within 120 days after receipt of the notice of termination by the Principal and the Department (if the dates of receipt are different, the later date shall control) from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect. The Surety(ies) shall also become liable on this bond obligation when:

(a) There is the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the Principal as debtor; or
(b) The Principal, if it has a legal existence, has failed to maintain said legal existence and no successor has assumed its legal obligations in accordance with 310 CMR 80.00.
Such obligation does not apply to any of the following:

1. Any obligation of [insert Owner or Operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
2. Bodily injury to an employee of [insert Owner or Operator] arising from, and in the course of, employment by [insert Owner or Operator];
3. Bodily injury or property damage arising from the Ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
4. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert Owner or Operator] that is not the direct result of a release from a petroleum UST;
5. Bodily injury or property damage for which [insert Owner or Operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 310 CMR 80.52.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

80.54: continued

Upon notification by the Department that the Principal has failed to ["take corrective action, in accordance with M.G.L. c. 21E, 310 CMR 40.0000: *Massachusetts Contingency Plan*, other applicable laws and regulations and the Department's instructions," and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) shall either perform ["corrective action in accordance with M.G.L. c. 21E, 310 CMR 40.0000: *Massachusetts Contingency Plan*, other applicable laws and regulations and the Department's instructions," and/or "third-party liability compensation"] or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by the Department in accordance with 310 CMR 80.60.

Upon notification by the Department that the Principal has failed to provide alternate financial assurance as specified in 310 CMR 80.57 and has failed to obtain the Department's written approval of such assurance within 60 days after the date the notice of cancellation is received by both the Principal and the Department (if the dates of receipt are different, the later date shall control) from the Surety(ies), the Surety(ies) shall place the total penal sum of the bond guaranteed for the tanks into the standby trust fund as directed bythe Department in accordance with 310 CMR 80.60.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal, and to the Department at the addresses provided herein, provided, however, that cancellation shall not take effect until at least 120 days after the date of receipt of the notice of cancellation by both the Principal, and the Department as shown by the later return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization by the Department for termination of the bond.

In Witness Thereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The individuals whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 310 CMR 80.54(3)(b) as in effect on the date this bond was executed.

Principal

[Signature(s)]

[Names(s)]

[Title(s)]

[Corporate seal]

Corporate Surety(ies)

[Name and address]

State of Incorporation: _____

80.54: continued

Liability limit: $_____

[Signature(s)]

[Names(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: $_____

(c) Under the terms of the bond, the surety will become liable on the bond obligation when the Owner or Operator fail to perform as guaranteed by the bond. In all cases, the surety's liability is limited to theper-occurrence and annual aggregate penal sums.

(d) The Owner or Operator who uses a surety bond to satisfy the requirements of 310 CMR 80.52 shall establish a standby trust fund in accordance with 310 CMR 80.55 when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accordance with instructions from the Department in accordance with 310 CMR 80.60.

(4) Letter of Credit.

(a) An Owner or Operator may satisfy the requirements of 310 CMR 80.52 by obtaining an irrevocable standby letter of credit that conforms to the requirements 310 CMR 80.54(4). The institution issuing the letter of credit shall be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by The Massachusetts Commissioner of Banks, or the institution shall be a national bank (federally chartered).

(b) The letter of credit shall be worded as follows, except that instructions in brackets shall be replaced with the relevant information and the brackets deleted:

Irrevocable Standby Letter of Credit

[Name and address of issuing institution]

Commissioner

Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108
Attn: UST Program

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. in your favor, at the request and for the account of [Owner or Operator name] of [address] up to the aggregate amount of [in words] U.S. dollars ($[insert dollar amount]), available upon presentation by you or your designee, of (1) your or your designee's sight draft, bearing reference to this letter of credit, No. , and (2) your or your designee's signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of Massachusetts General Laws Chapter 21O."

This letter of credit may be drawn on to cover the following conditions:

1. [insert: "taking corrective action" and/or "compensating third parties for bodily injuryand propertydamage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tank(s) identified below in the amount of [in words] $[insert dollar amount] per occurrence and [in words]
$[insert dollar amount] annual aggregate:

80.54: continued

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the DEP tank number provided in the registration submitted in accordance with 310 CMR 80.23(1), and the name and address of the facility.]; or

2. There is the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the Principal as debtor; or

3. [Owner or Operator name], if it has a legal existence, has failed to maintain said legal existence and no successor has assumed its legal obligations in accordance with 310 CMR 80.00.

The letter of credit may not be drawn on to cover any of the following:

(a) Any obligation of [insert Owner or Operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert Owner or Operator] arising from, and in the course of, employment by [insert Owner or Operator];

(c) Bodily injury or property damage arising from the Ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert Owner or Operator] that is not the direct result of a release from a petroleum UST;

(e) Bodily injury or property damage for which [insert Owner or Operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 310 CMR 80.52.

This letter of credit is effective as of [date] and shall expire on [date at least one year later], but such expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and [Owner's or Operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your or your designee's sight draft within 120 days after the receipt of notification by both you and [Owner's or Operator's name], as shown on the later of the signed returned receipts.

Whenever this letter of credit is drawn on, under, and in compliance with the terms of this letter of credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [Owner's or Operator's name] in accordance with you or your designee's instructions.

We certify that the wording of this letter of credit is identical to the wording specified in 310 CMR 80.54(4)(b). as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

(c) An Owner or Operator who uses a letter of credit to satisfy the requirements of 310 CMR 80.52 shall also establish a standby trust fund in accordance with 310 CMR 80.55 when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Department will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Department in accordance with 310 CMR 80.60.

80.54: continued

(d) The letter of credit shall be irrevocable with a term specified by the issuing institution. The letter of credit shall provide that credit be automatically renewed for the same term as the original term, unless, at least 120 days before the current expiration date, the issuing institution notifies the Owner or Operator by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the 120 days will begin on the date when the Owner or Operator receives the notice, as evidenced by the return receipt.

(5) Trust Fund.

(a) An Owner or Operator may satisfy the requirements of 310 CMR 80.52 by establishing a trust fund in accordance with the terms of 310 CMR 80.54(5) and 80.55. The Owner or Operator shall send an original signed duplicate of the trust agreement to the Department within the applicable time period prescribed in 310 CMR 80.58(1). The trustee shall be a bank or other financial institution which has the authority to act as a trustee and whose trust operations are regulated and examined by the Massachusetts Commissioner of Banks, or the trustee shall be a national bank.

(b) The wording of the trust agreement shall be identical to the wording specified in 310 CMR 80.55(2), and the trust agreement shall be accompanied by a formal certification of acknowledgement identical to the wording specified in 310 CMR 80.55(3).

(c) The trust fund, when established, shall be funded for the full required amount of coverage, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining required coverage.

(d) If the value of the trust fund is greater than the required amount of coverage, the Owner or Operator may submit a written request to the Department for release of the excess.

(e) If other financial assurance as specified in 310 CMR 80.54 is substituted for all or part of the trust fund, the Owner or Operator may submit a written request to the Department for release of the excess.

(f) Within 60 days after receiving a request from the Owner or Operator for release of funds as specified in 310 CMR 80.54(5)(d) or (e), the Department shall instruct the trustee to release to the Owner or Operator such funds as the Department specifies in writing.

(6) Local Government Bond Rating Test.

(a) A Local Government Owner or Operator may satisfy the requirements of 310 CMR 80.52 by meeting the Local Government Bond Rating Test in 310 CMR 80.54(6).

(b) A general purpose local government Owner or Operator and/or local government serving as a guarantor may have a current outstanding issue or issues of general obligation bonds of

$1 million or more, excluding refunded obligations, with a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB. Where a local government has multiple outstanding issues, or where a local government's bonds are rated by both Moody's and Standard and Poor's, the lowest rating shall be used to determine eligibility. Bonds that are backed by credit enhancement other than municipal bond insurance may not be considered in determining the amount of applicable bonds outstanding.

(c) A local government Owner or Operator or local government serving as a guarantor that is not a general-purpose local government and does not have the legal authority to issue general obligation bonds may have a current outstanding issue or issues of revenue bonds of

$1 million or more, excluding refunded issues, and by also having a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB as the lowest rating for any rated revenue bond issued by the local government. Where bonds are rated by both Moody's and Standard & Poor's, the lower rating for each bond must be used to determine eligibility. Bonds that are backed by credit enhancement may not be considered in determining the amount of applicable bonds outstanding.

(d) The local government Owner or Operator and/or guarantor shall maintain a copy of its bond rating published within the last 12 months by Moody's or Standard & Poor's.

(e) To demonstrate that it meets the local government bond rating test, the chief

financial officer of a general purpose local government Owner or Operator and/or guarantor shall sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

80.54: continued

Letter from Chief Financial Officer.

I am the chief financial officer of [insert: name and address of local government Owner or Operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) UST(s).

UST systems at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding bond issues that are being used by [name of local government Owner or Operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue Date	Maturity Date	Outstanding Amount	Bond Rating	Rating Agency
				[Moody's or Standard

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of $1 million. All outstanding general obligation bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last 12 months. Neither rating service has provided notification within the last 12 months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in 310 CMR 80.54(6)(e) as such regulations were constituted on the date shown immediately below.

[Date]_____
[Signature]_____
[Name]_____
[Title]_____

(f) To demonstrate that it meets the local government bond rating test, the chief financial officer of local government Owner or Operator and/or guarantor other than a general purpose government shall sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer.

I am the chief financial officer of [insert: name and address of local government Owner or Operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert : "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) UST(s). This local government is not organized to provide general governmental services and does not have the legal authority under state law or constitutional provisions to issue general obligation debt.

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UST systems at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

80.54: continued

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding revenue bond issues that are being used by [name of local government Owner or Operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue Date	Maturity Date	Outstanding Amount	Bond Rating	Rating Agency
				[Moody's or Standard

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of $1 million. All outstanding revenue bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last 12 months. The revenue bonds listed are not backed by third-party credit enhancement or are insured by a municipal bond insurance company. Neither rating service has provided notification within the last 12 months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in 310 CMR 80.54(6)(f) as such regulations were constituted on the date shown immediately below.

[Date]_____
[Signature]_____
[Name]_____
[Title]_____

(g) The Department may require reports of financial condition at any time from the local government Owner or Operator, and/or local government guarantor. If the Department finds, on the basis of such reports or other information, that the local government Owner or Operator, and/or guarantor, no longer meets the local government bond rating test requirements of 310 CMR 80.54(6)(b) through (e), the local government Owner or Operator shall obtain alternative coverage within 30 days after notification of such a finding.

(h) If a local government Owner or Operator using the bond rating test to provide financial assurance finds that it no longer meets the bond rating test requirements, the local government Owner or Operator shall obtain alternative coverage within 150 days of the change in status.

(7) Local Government Fund.

(a) A local government Owner or Operator may satisfy the requirements of 310 CMR 80.52 by establishing a dedicated fund account that conforms to the requirements of 310 CMR 80.54(7). Except as specified 310 CMR 80.54(7)(a)2., a dedicated fund may not be commingled with other funds or otherwise used in normal operations. A dedicated fund will be considered eligible if it meets one of the following requirements:

1. The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of UST systems and is funded for the full amount of coverage required under 310 CMR 80.52, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage; or

2. The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order as a contingency fund for general emergencies, including taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of UST systems, and is funded for five times the full amount of coverage required under 310 CMR 80.52, or funded for five times a portion of the required amount of coverage

and used in combination with other mechanism(s) that provide the remaining coverage. If at any time, other than during the pay-in-period defined in subparagraph 3. below, the fund is

80.54: continued

funded for less than five times the amount of coverage required under 310 CMR 80.52, the amount of financial responsibility demonstrated by the fund may not exceed one-fifth the amount in the fund; or

3. The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of UST systems. A payment is made to the fund once every year for seven years until the fund is fully-funded. This seven year period is hereafter referred to as the "pay-in-period". The amount of each payment must be determined by this formula:

$$\frac{TF-CF}{Y}$$

Where TF is the total required financial assurance for the Owner or Operator, CF is the current amount in the fund, and Y is the number of years remaining in the pay-in-period, and;

a. The local government Owner or Operator has available bonding authority, approved through voter referendum (if such approval is necessary prior to the issuance of bonds), for an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund. This bonding authority shall be available for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs; or

b. The local government Owner or Operator has a letter signed by the appropriate state attorney general stating that the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws. The letter shall also state that prior voter approval is not necessary before use of the bonding authority.

(b) To demonstrate that it meets the requirements of the local government fund, the chief financial officer of the local government Owner or Operator and/or guarantor must sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer.

I am the chief financial officer of [insert: name and address of local government Owner or Operator, or guarantor]. This letter is in support of the use of the local government fund mechanism to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) UST(s).

UST systems at the following facilities are assured by this local government fund mechanism: [List for each facility: the name and address of the facility where tanks are assured by the local government fund].

[Insert: "The local government fund is funded for the full amount of coverage required under 310 CMR 80.52, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage" or "The local government fund is funded for ten times the full amount of coverage required under 310 CMR 80.52, or funded for part of the required amount of coverage and used in combination with other mechanisms(s) that provide the remaining coverage" or "A payment is made to the fund once every year for seven years until the fund is fully-funded and [name of local government Owner or Operator] has available bonding authority, approved through voter referendum, of an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund" or "A payment is made to the fund once every year for seven years until the fund is fully-funded and I have attached a letter signed by the State Attorney General stating that (1) the use of the bonding authority will not increase the local government's debt beyond the legal

debt ceilings established by the relevant state laws and (2) that prior voter approval is not necessary before use of the bonding authority".]

80.54: continued

The details of the local government fund are as follows:

Amount in Fund (market value of fund at close of last fiscal year): _____

[If fund balance is incrementally funded as specified in 310 CMR 80.54(7)(a)3., insert:

Amount added to fund in the most recently completed fiscal year: _____

Number of years remaining in the pay-in period:_____]

A copy of the state constitutional provision, or local government statute, charter, ordinance or order dedicating the fund is attached.

I hereby certify that the wording of this letter is identical to the wording specified in 310 CMR 80.54(7)(b) as such regulations were constituted on the date shown immediately below.

[Date]

[Signature

] [Name]

[Title]

(8) Local Government Financial Test.

(a) A Local Government Owner or Operator may satisfy the requirements of 310 CMR 80.52 by passing the financial test specified at 310 CMR 80.54(8). To be eligible to use the financial test, the local government Owner or Operator shall have the ability and authority to assess and levy taxes or to freely establish fees and charges. To pass the local government financial test, the Owner or Operator shall meet the criteria of 310 CMR 80.54(8)(b) and (c) based on year-end financial statements for the latest completed fiscal year.

(b) The local government Owner or Operator shall have the following information available, as shown in the year-end financial statements for the latest completed fiscal year:

1. Total Revenues: Consists of the sum of general fund operating and non-operating revenues including net local taxes, licenses and permits, fines and forfeitures, revenues from use of money and property, charges for services, investment earnings, sales (property, publications, *etc*.), intergovernmental revenues (restricted and unrestricted), and total revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity. For purposes of this test, the calculation of total revenues shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers), liquidation of investments, and issuance of debt.

2. Total Expenditures: Consists of the sum of general fund operating and non-operating expenditures including public safety, public utilities, transportation, public works, environmental protection, cultural and recreational, community development, revenue sharing, employee benefits and compensation, office management, planning and zoning, capital projects, interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues. For purposes of this test, the calculation of total expenditures shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers).

3. Local Revenues: Consists of total revenues (as defined in 310 CMR 80.54(8)(b)1.) minus the sum of all transfers from other governmental entities, including all monies received from Federal, state, or local government sources.

4. Debt Service: Consists of the sum of all interest and principal payments on all

long-term credit obligations and all interest-bearing short-term credit obligations. Includes interest and principal payments on general obligation bonds, revenue bonds, notes, mortgages, judgments, and interest bearing warrants. Excludes payments on non-interest-bearing short-term obligations, interfund obligations, amounts owed in a trust or agency capacity, and advances and contingent loans from other governments.

80.54: continued

5. Total Funds: Consists of the sum of cash and investment securities from all funds, including general, enterprise, debt service, capital projects, and special revenue funds, but excluding employee retirement funds, at the end of the local government's financial reporting year. Includes Federal securities, Federal agency securities, state and local government securities, and other securities such as bonds, notes and mortgages. For purposes of this test, the calculation of total funds shall exclude agency funds, private trust funds, accounts receivable, value of real property, and other non-security assets.

6. Population consists of the number of people in the area served by the local government.

(c) The local government's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion or a disclaimer of opinion. The local government cannot have outstanding issues of general obligation or revenue bonds that are rated as less than investment grade.

(d) The local government Owner or Operator shall have a letter signed by the chief financial officer worded as specified in 310 CMR 80.54(8)(e).

(e) To demonstrate that it meets the financial test under 310 CMR 80.54(8)(b), the chief financial officer of the local government Owner or Operator, shall sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter From Chief Financial Officer.

I am the chief financial officer of [insert: name and address of the Owner or Operator]. This letter is in support of the use of the local government financial test to demonstrate financial responsibilityfor [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating [a] UST[s].

UST systems at the following facilities are assured by this financial test [List for each facility: the name and address of the facility where tanks assured by this financial test are located. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the registration submitted in accordance with 310 CMR 80.23(1).]

This [Owner or Operator] has not received an adverse opinion, or a disclaimer of opinion from an independent auditor on its financial statements for the latest completed fiscal year. Any outstanding issues of general obligation or revenue bonds, if rated, have a Moody's rating of Aaa, Aa, A, or Baa or a Standard and Poor's rating of AAA, AA, A, or BBB; if rated by both firms, the bonds have a Moody's rating of Aaa, Aa, A, or Baa and a Standard and Poor's rating of AAA, AA, A, or BBB.

Worksheet for Municipal Financial Test

Part I: Basic Information

1. Total Revenues
   a. Revenues (dollars) _____
   Value of revenues excludes liquidation of investments and issuance of debt. Value includes all general fund operating and non-operating revenues, as well as all revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity.

b. Subtract interfund transfers (dollars)_____
c. Total Revenues (dollars)_____

80.54: continued

2. Total Expenditures
   a. Expenditures (dollars) _____
   Value consists of the sum of general fund operating and non-operating expenditures including interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues.
   b. Subtract interfund transfers (dollars)_____
   c. Total Expenditures (dollars)_____
3. Local Revenues
   a. Total Revenues (from 1c) (dollars) _____
   b. Subtract total intergovernmental transfers (dollars)_____
   c. Local Revenues (dollars)_____
4. Debt Service
   a. Interest and fiscal charges (dollars)_____
   b. Add debt retirement (dollars)_____
   c. Total Debt Service (dollars)_____
5. Total Funds (Dollars)_____
(Sum of amounts held as cash and investment securities from all funds, excluding amounts held for employee retirement funds, agency funds, and trust funds)
6. Population (Persons)_____

Part II: Application of Test

7. Total Revenues to Population
   a. Total Revenues (from 1c)_____
   b. Population (from 6)_____
   c. Divide 7a by 7b _____
   d. Subtract 417_____
   e. Divide by 5,212_____
   f. Multiply by 4.095_____
8. Total Expenses to Population
   a. Total Expenses (from 2c)_____
   b. Population (from 6)_____
   c. Divide 8a by 8b _____
   d. Subtract 524 _____
   e. Divide by 5,401_____
   f. Multiply by 4.095_____
9. Local Revenues to Total Revenues
   a. Local Revenues (from 3c)_____
   b. Total Revenues (from 1c)_____
   c. Divide 9a by 9b _____
   d. Subtract .695_____
   e. Divide by .205_____
   f. Multiply by 2.840 _____
10. Debt Service to Population
   a. Debt Service (from 4d) _____
   b. Population (from 6)_____
   c. Divide 10a by 10b _____
   d. Subtract 51 _____
   e. Divide by 1,038_____
   f. Multiply by -1.866_____
11. Debt Service to Total Revenues
   a. Debt Service (from 4d)_____
   b. Total Revenues (from 1c)_____
   c. Divide 11a by 11b _____
   d. Subtract .068 _____
   e. Divide by .259 _____
   f. Multiply by -3.533 _____

80.54: continued

12. Total Revenues to Total Expenses
    a. Total Revenues (from 1c)_____
    b. Total Expenses (from 2c)_____
    c. Divide 12a by 12b_____
    d. Subtract .910 _____
    e. Divide by .899 _____
    f. Multiply by 3.458 _____
13. Funds Balance to Total Revenues
    a. Total Funds (from 5) _____
    b. Total Revenues (from 1c)_____
    c. Divide 13a by 13b _____
    d. Subtract .891 _____
    e. Divide by 9.156_____
    f. Multiply by 3.270 _____
14. Funds Balance to Total Expenses
    a. Total Funds (from 5)_____
    b. Total Expenses (from 2c)_____
    c. Divide 14a by 14b_____
    d. Subtract .866 _____
    e. Divide by 6.409 _____
    f. Multiply by 3.270 _____
15. Total Funds to Population _____
    a. Total Funds (from 5) _____
    b. Population (from 6)_____
    c. Divide 15a by 15b _____
    d. Subtract 270 _____
    e. Divide by 4,548 _____
    f. Multiply by 1.866 _____
16. Add 7f + 8f + 9f + 10f + 11f + 12f + 13f + 14f + 15f + 4.937_____

I hereby certify that the financial index shown on line 16 of the worksheet is greater than zero and that the wording of this letter is identical to the wording specified in 310 CMR 80.54(8)(e) as such regulations were constituted on the date shown immediately below.

[Date]

[Signature]

[Name]

[Title]

(f) If a local government Owner or Operator using the test to provide financial assurance finds that it no longer meets the requirements of the financial test based on the year-end financial statements, the Owner or Operator shall obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.

(g) The Department may require reports of financial condition at any time from the local government Owner or Operator. If the Department finds, on the basis of such reports or other information, that the local government Owner or Operator no longer meets the financial test requirements of 310 CMR 80.54(8)(b) and (c), the Owner or Operator shall obtain alternate coverage within 30 days after notification of such a finding.

(h) If the local government Owner or Operator fails to obtain alternate assurance within 150 days of finding that it no longer meets the requirements of the financial test based on the year-end financial statements or within 30 days of notification by the Department that it no longer meets the requirements of the financial test, the Owner or Operator shall notify the Department of such failure within ten days.

80.54: continued

(9) Local Government Guarantee.

(a) A local government Owner or Operator may satisfy the requirements of 310 CMR 80.52 by obtaining a guarantee that conforms to the requirements 310 CMR 80.54(9). The guarantor must be either the state in which the local government Owner or Operator is located or a local government having a "substantial governmental relationship" with the Owner or Operator and issuing the guarantee as an act incident to that relationship. A local government acting as the guarantor shall:

1. Demonstrate that it meets the bond rating test requirement of 310 CMR 80.54(6)and deliver a copy of the chief financial officer's letter as contained in 310 CMR 80.54(6)(d) to the local government Owner or Operator; or

2. Demonstrate that it meets the local government fund requirements of 310 CMR 80.54(7)(a)1., 2. or 3. and deliver a copy of the chief financial officer's letter as contained in 301 CMR 80.54(7)(b) to the local government Owner or Operator; or

3. Demonstrate that it meets the worksheet test requirements of 310 CMR 80.54(8) and deliver a copy of the chief financial officer's letter as contained in 310 CMR 80.54(8)(e) to the local government Owner or Operator.

(b) If the local government guarantor is unable to demonstrate financial assurance under 310 CMR 80.54(6), 80.54(7)(a)1., 2. or 3., or 80.54(8), at the end of the financial reporting year, the guarantor shall send by certified mail, before cancellation or non-renewal of the guarantee, notice to the Owner or Operator and the Department. The guarantee will terminate no less than 120 days after the date the Owner or Operator and the Department receives the notification, as evidenced by the later return receipt. The Owner or Operator shall obtain alternative coverage as specified in 310 CMR 80.57.

(c) The guarantee agreement shall be worded as specified in 310 CMR 80.54(9)(d) or (e) depending on which of the following guarantee arrangements is selected.

1. If, in the default or incapacity of the Owner or Operator, the guarantor guarantees to fund a standby trust as directed by the Department, the guarantee shall be worded as specified in 310 CMR 80.54(9)(d).

2. If, in the default or incapacity of the Owner or Operator, the guarantor guarantees to make payments as directed by the Department for taking corrective action or compensating third parties for bodily injury and property damage, the guarantee shall be worded as specified in 310 CMR 80.54(9)(e).

(d) If the guarantor is a state, the local government guarantee with standby trust shall be worded exactly as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Local Government Guarantee With Standby Trust Made by a State

Guarantee made this [date] by [name of state], herein referred to as guarantor, to the Massachusetts Department of Environmental Protection (the Department) and to anyand all third parties, and obliges, on behalf of [local government Owner or Operator].

Recitals

(1) Guarantor is a state.

(2) [Local government Owner or Operator] owns or operates the following UST system(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the DEP tank identification number provided in the registration submitted in accordance with 310 CMR 80.23(1), and the name and address of the facility.] This guarantee satisfies 310 CMR 80.52 requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodilyinjuryand propertydamage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified UST(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

80.54: continued

(3) Guarantor guarantees to the Department and to any and all third parties that:

In the event that [local government Owner or Operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the Department has determined or suspects that a release has occurred at a UST system covered by this guarantee, the guarantor, upon instructions from the Department shall fund a standby trust fund in accordance with the provisions of 310 CMR 80.60, in an amount not to exceed the coverage limits specified above.

In the event that the Department determines that [local government Owner or Operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with M.G.L. c. 21E, 310 CMR 40.0000: *Massachusetts Contingency Plan* and other applicable laws and regulations, the guarantor upon written instructions from the Department shall fund a standby trust fund in accordance with the provisions of, 310 CMR 80.60 in an amount not to exceed the coverage limits specified above.

If [Owner or Operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the Department, shall fund a standby trust in accordance with the provisions of 310 CMR 80.60 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees to notify [Owner or Operator] and the Department by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within ten days after commencement of the proceeding.

(5) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [Owner or Operator] pursuant to 310 CMR 80.00.

(6) Guarantor agrees to remain bound under this guarantee for so long as [local government Owner or Operator] shall comply with the applicable financial responsibility requirements of 310 CMR 80.51 through 80.63 for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [Owner or Operator] and the Department, such cancellation to become effective no earlier than 120 days after receipt of such notice by [Owner or Operator] and the Department, as evidenced by the later return receipt.

(7) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [local government Owner or Operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert: local government Owner or Operator] arising from, and in the course of, employment by [insert: local government Owner or Operator];

(c) Bodily injury or property damage arising from the Ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaded to, in the care, custody, or control of, or occupied by [insert: local government Owner or Operator] that is not the direct result of a release from a UST system;

(e) Bodily damage or property damage for which [insert Owner or Operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 310 CMR 80.52.

(8) Guarantor expressly waives notice of acceptance of this guarantee by the Department, by any or all third parties, or by [local government Owner or Operator],

80.54: continued

I hereby certify that the wording of this guarantee is identical to the wording specified in 310 CMR 80.54(9)(d) as such regulations were constituted on the effective date shown immediately below.

Effective date:_____

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

(e) If the guarantor is a local government, the local government guarantee with standby trust must be worded exactly as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Local Government Guarantee With Standby Trust Made by a Local Government

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of Massachusetts, herein referred to as guarantor, to the Massachusetts Department of Environmental Protection (the Department) and to any and all third parties, and obliges, on behalf of [local government Owner or Operator].

Recitals

(1) Guarantor meets or exceeds [select one: the local government bond rating test requirements 310 CMR 80.54(6), the local government financial test requirements of 310 CMR 80.54(8), or the local government fund under 310 CMR 80.54(7)(a)1., 2. or 3.

(2) [Local government Owner or Operator] owns or operates the following UST system(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the DEP tank identification number provided in the registration submitted in accordance with 310 CMR 80.23(1), and the name and address of the facility.] This guarantee satisfies 310 CMR 80.51 through 80.63 for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified UST(s) in the amount of [insert dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(3) Incident to our substantial governmental relationship with [local government Owner or Operator], guarantor guarantees to the Department and to any and all third parties and obliges that:

In the event that [local government Owner or Operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the Department has determined or suspects that a release has occurred at a UST covered by this guarantee, the guarantor, upon instructions from the Department shall fund a standby trust fund in accordance with the provisions of 310 CMR 80.60, in an amount not to exceed the coverage limits specified above.

80.54: continued

In the event that the Department determines that [local government Owner or Operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with M.G.L. c. 21E, 310 CMR 40.0000: *Massachusetts Contingency Plan* and other applicable laws and regulations, the guarantor upon written instructions from the Department shall fund a standby trust fund in accordance with the provisions of 310 CMR 80.60, in an amount not to exceed the coverage limits specified above.

If [Owner or Operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the Department, shall fund a standby trust in accordance with the provisions of 310 CMR 80.60 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees that, if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within 120 days of such failure, by certified mail, notice to [local government Owner or Operator] and the Department, as evidenced by the return receipt.

(5) Guarantor agrees to notify [Owner or Operator] and the Department by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within ten days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [Owner or Operator] pursuant to 310 CMR 80.00.

(7) Guarantor agrees to remain bound under this guarantee for so long as [local government Owner or Operator] shall comply with the applicable financial responsibility requirements of 310 CMR 80.51 through 80.63 for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [Owner or Operator] and the Department, such cancellation to become effective no earlier than 120 days after receipt of such notice by [Owner or Operator], as evidenced by the later return receipt.

(8) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [local government Owner or Operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert: local government Owner or Operator] arising from, and in the course of, employment by [insert: local government Owner or Operator];

(c) Bodily injury or property damage arising from the Ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government Owner or Operator] that is not the direct result of a release from a UST system;

(e) Bodily damage or property damage for which [insert: Owner or Operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 310 CMR 80.52.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Department, by any or all third parties, or by [local government Owner or Operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 310 CMR 80.54(9)(e) as such regulations were constituted on the effective date shown immediately below.

Effective date:_____

[Name of guarantor]

80.54: continued

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

_____

(f) If the guarantor is a state, the local government guarantee without standby trust must be worded exactly as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Local Government Guarantee Without Standby Trust Made by a State

Guarantee made this [date] by Massachusetts, herein referred to as guarantor, to the Massachusetts Department of Environmental Protection (the Department) and to anyand all third parties, and obliges, on behalf of [local government Owner or Operator].

Recitals

(1) Guarantor is a state.

(2) [Local government Owner or Operator] owns or operates the following UST system(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the DEP tank identification number provided in the registration submitted in accordance with 310 CMR 80.23(1), and the name and address of the facility.] This guarantee satisfies 310 CMR 80.52 requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodilyinjuryand propertydamage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified UST(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(3) Guarantor guarantees to the Department and to any and all third parties and obliges that:

In the event that [local government Owner or Operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the Department has determined or suspects that a release has occurred at a UST system covered by this guarantee, the guarantor, upon written instructions from the Department shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that the Department determines that [local government Owner or Operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with M.G.L. c. 21E, 310 CMR 40.0000: *Massachusetts Contingency Plan* and other applicable laws and regulations, the guarantor upon written instructions from the Department shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If [Owner or Operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or

"nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the Department, shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

80.54: continued

(4) Guarantor agrees to notify [Owner or Operator] and the Department by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within ten days after commencement of the proceeding.

(5) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [Owner or Operator] pursuant to 310 CMR 80.00.

(6) Guarantor agrees to remain bound under this guarantee for so long as [local government Owner or Operator] shall comply with the applicable financial responsibility requirements of 310 CMR 80.51 through 80.63 for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [Owner or Operator] and the Department, such cancellation to become effective no earlier than 120 days after receipt of such notice by [Owner or Operator] and the Department, as evidenced by the later return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

(7) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [local government Owner or Operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert local government Owner or Operator] arising from, and in the course of, employment by [insert: local government Owner or Operator];

(c) Bodily injury or property damage arising from the Ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaded to, in the care, custody, or control of, or occupied by [insert: local government Owner or Operator] that is not the direct result of a release from a UST system;

(e) Bodily damage or property damage for which [insert: Owner or Operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 310 CMR 80.52.

(8) Guarantor expressly waives notice of acceptance of this guarantee by the Department, by any or all third parties, or by [local government Owner or Operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 310 CMR 80.54(9)(f) as such regulations were constituted on the effective date shown immediately below.

Effective date:_____

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

(g) If the guarantor is a local government, the local government guarantee without

standby trust must be worded exactly as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Local Government Guarantee Without Standby Trust Made by a Local Government

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of Massachusetts, herein referred to as guarantor, to the Massachusetts Department of Environmental Protection (the Department) and to any and all third parties, and obliges, on behalf of [local government Owner or Operator].

80.54: continued

Recitals

(1) Guarantor meets or exceeds [select one: the local government bond rating test requirements of 310 CMR 80.54(6), the local government financial test requirements of 310 CMR 80.54(8), the local government fund under 310 CMR 80.54(7)(a)1., 2. or 3.

(2) [Local government Owner or Operator] owns or operates the following UST system(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the DEP tank identification number provided in the registration submitted in accordance with 310 CMR 80.23(1), and the name and address of the facility.] This guarantee satisfies 310 CMR 80.51 through 80.63 for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodilyinjuryand propertydamage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified UST(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(3) Incident to our substantial governmental relationship with [local government Owner or Operator], guarantor guarantees to the Department and to any and all third parties and obliges that:

In the event that [local government Owner or Operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the Department has determined or suspects that a release has occurred at a UST covered by this guarantee, the guarantor, upon written instructions from the Department shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that the Department determines that [local government Owner or Operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with M.G.L. c. 21E, 310 CMR 40.0000: *Massachusetts Contingency Plan* and other applicable laws and regulations, the guarantor upon written instructions from the Department shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If [Owner or Operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the Department, shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

(4) Guarantor agrees that if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within 120 days of such failure, by certified mail, notice to [local government Owner or Operator] and the Department, as evidenced by the return receipt.

(5) Guarantor agrees to notify [Owner or Operator] and the Department by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within ten days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [Owner or Operator] pursuant to 310 CMR 80.00.

80.54: continued

(7) Guarantor agrees to remain bound under this guarantee for so long as [local government Owner or Operator] shall comply with the applicable financial responsibility requirements of 310 CMR 80.51 through 80.63 for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [Owner or Operator] and the Department, such cancellation to become effective no earlier than 120 days after receipt of such notice by [Owner or Operator], as evidenced by the later return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

(8) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [local government Owner or Operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert: local government Owner or Operator] arising from, and in the course of, employment by [insert: local government Owner or Operator];

(c) Bodily injury or property damage arising from the Ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaded to, in the care, custody, or control of, or occupied by [insert: local government Owner or Operator] that is not the direct result of a release from a UST system;

(e) Bodily damage or property damage for which [insert: Owner or Operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 310 CMR 80.52.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Department, by any or all third parties, or by [local government Owner or Operator],

I hereby certify that the wording of this guarantee is identical to the wording specified in 310 CMR 80.54(9)(g) as such regulations were constituted on the effective date shown immediately below.

Effective date:_____

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

(10) Financial Test of Self-insurance.

(a) An Owner or Operator, and/or guarantor, may satisfy the requirements of 310 CMR 80.52 by passing a financial test as specified in 310 CMR 80.54(10). To pass the financial test of self-insurance, the Owner or Operator, and/or guarantor shall meet the criteria of 310 CMR 80.54(10)(b) or (c) based on independently audited year-end financial statements for the latest completed fiscal year.

(b) The Owner or Operator, and/or guarantor shall meet all the following criteria:

1. Have a tangible net worth of at least ten times:

a. The total of the applicable aggregate amount required by 310 CMR 80.52, based on the number of UST system tanks for which a financial test is used to demonstrate financial responsibility to the Department.

b. The sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage for which a financial test is used to demonstrate financial responsibility to the Department under 310 CMR 30.000: *Hazardous Waste*; and

2. Have a tangible net worth of at least $10 million.

80.54: continued

3. Have a letter signed by the chief financial officer worded as specified 310 CMR 80.54(10)(d).

4. Comply with one of the following:

a. File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Electrification Administration; or

b. Report annually the firm's tangible net worth to Dun and Bradstreet, and have an assigned Dun and Bradstreet financial strength rating of 4A or 5A.

5. The firm's year-end financial statements, which shall be independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

(c) The Owner or Operator, and/or guarantor shall meet the financial test requirements of 40 CFR 264.147(f)(1), substituting the appropriate amounts specified in 310 CMR 80.52(3)(a) and (b) for the "amount of liability coverage" each time specified in that section.

1. The fiscal year-end financial statements of the Owner or Operator, and/or guarantor, shall be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination.

2. The firm's year-end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

3. The Owner or Operator, and/or guarantor, shall have a letter signed by the chief financial officer, worded as specified in 310 CMR 80.54(10)(d).

4. If the financial statements of the Owner or Operator, and/or guarantor, are not submitted annually to the U.S. Securities and Exchange Commission, the Energy Information Administration or the Rural Electrification Administration, the Owner or Operator, and/or guarantor, shall obtain a special report by an independent certified public accountant stating that:

a. S/he has compared the data that the letter from the chief financial officer specifies as having been derived from the latest year-end financial statements of the Owner or Operator, and/or guarantor, with the amounts in such financial statements; and

b. In connection with that comparison, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(d) To demonstrate that it meets the financial test under paragraph 310 CMR 80.54(10)(b) or (c), the chief financial officer of the Owner or Operator, or guarantor, shall sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of the Owner or Operator, or guarantor]. This letter is in support of the use of [insert: "the financial test of self-insurance," and/or "guarantee"] to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank system(s).

Underground storage tank systems at the following facilities are assured by this financial test by this [insert: "Owner or Operator," and/or "guarantor"]: [List for each facility: the name and

address of the facility where tanks assured by this financial test are located, and whether tanks are assured by this financial test. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the registration submitted pursuant to 310 CMR 80.23.

A [insert: "financial test," and/or "guarantee"] is also used by this [insert: "Owner or Operator," or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts under 310 CMR 30.000: *Hazardous Waste*.

80.54: continued

DEP Regulations	***Amount***
Closure (310 CMR 30.904: *Financial Assurance for Closure*)	$
Post-closure Care (310 CMR 30.906: *Financial Assurance for Post-closure Care*)	$
Liability Coverage (310 CMR 30.908: *Liability Requirements (Effective July 1,*	$
Corrective Action (310 CMR 30.602(9))	$
Closure	$
Post-closure Care	$
Liability Coverage	$
Corrective Action	$
Total	$

This [insert: "Owner or Operator," or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of 310 CMR 80.54(10)(b) are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of 310 CMR 80.54(10)(c) are being used to demonstrate compliance with the financial test requirements.]

Alternative I

1.	Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee	$_____
2.	Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee	$_____
3.	Sum of lines 1. and 2.	$_____
4.	Total tangible assets	$_____
5.	Total liabilities [if any of the amount reported on line 3. is included in total liabilities, you may deduct that amount from this line and add that amount to line 6.]	$_____
		$_____
6.	Tangible net worth [subtract line 5. from line 4.]	YES NO
7.	Is line 6. at least $10 million?	____ ___
8.	Is line 6. at least 10 times line 3.?	____ ___
9.	Have financial statements for the latest fiscal year been filed with the Securities and Exchange Commission?	_____ ___
10.	Have financial statements for the latest fiscal year been filed with the Energy Information Administration?	_____ ___

11.	Have financial statements for the latest fiscal year been filed with the Rural Electrification Administration?	_____ ___
12.	Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of 4A or 5A? [Answer "Yes" only if both criteria have been met.]	_____ ___

80.54: continued

Alternative II

1.	Amount of annual UST aggregate coverage being assured by a test, and/or guarantee	$_____
2.	Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee	$_____
3.	Sum of lines 1. and 2.	$_____
4.	Total tangible assets	$_____
5.	Total liabilities [if any of the amount reported on line 3. is included in total liabilities, you may deduct that amount from this line and add that amount to line 6.]	$_____
6.	Tangible net worth [subtract line 5. from line 4.]	$_____
7.	Total assets in the U.S. [required only if less than 90% of assets are located in the U.S.]	$_____
		YES NO
8.	Is line 6. at least $10 million?	$____ ____
9.	Is line 6. at least 6 times line 3.?	____ ___
10.	Are at least 90% of assets located in the U.S.? [If "No," complete line 11.]	_____ ___
11.	Is line 7. at least 6. times line 3?	_____ ___
[Fill in either lines 12. through 15. or lines 16. through 18.:]		
12.	Current assets	$_____
13.	Current liabilities	_____
14.	Net working capital [subtract line 13. from line 12.]	_____
		YES NO
15.	Is line 14. at least 6 times line 3.?	_____ ___
16.	Current bond rating of most recent bond issue	_____ ___
17.	Name of rating service	____ ___
18.	Date of maturity of bond	____ ___
19.	Have financial statements for the latest fiscal year been filed with the SEC, the Energy Information Administration, or the Rural Electrification Administration?	_____ ___

[If "No," please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines 4-18 above and the financial statements for the latest fiscal year.]

[For both Alternative I and Alternative II complete the certification with this statement.]

80.54: continued

I hereby certify under penalty of law that: (i) the [Owner or Operator, or guarantor] passes [Alternative I or Alternative II] of the Financial Test of Self Insurance; (ii) that the wording of this letter is identical to the wording specified in 310 CMR 80.54(10)(d) as such regulations were constituted on the date shown immediately below; (iii) I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment.

[Signature]

[Name]

[Title]

[Date]

(e) If an Owner or Operator using the test to provide financial assurance finds that he or she no longer meets the requirements of the financial test based on the year-end financial statements, the Owner or Operator shall obtain alternative coverage within 150 days ofthe end of the year for which financial statements have been prepared.

(f) The Department may require reports of financial condition at any time from the Owner or Operator, and/or guarantor. If the Department, on the basis of such reports or other information, determines that the Owner or Operator, and/or guarantor, no longer meets the financial test requirements of 310 CMR 80.54(10)(b) or (c) and (d), the Owner or Operator shall obtain alternate coverage within 30 days after notification of such a finding.

(g) If the Owner or Operator fails to obtain alternate assurance within 150 days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the Department that he or she no longer meets the requirements of the financial test, the Owner or Operator shall notify the Department of such failure within ten days.

(11) Guarantee.

(a) An Owner or Operator may meet the requirements of 310 CMR 80.52 by obtaining a guarantee that conforms to the requirements of 310 CMR 80.54(11).

1. The guarantor shall be:
   a. A firm that:
      i. possesses a controlling interest in the Owner or Operator;
      ii. possesses a controlling interest in a firm described under 310 CMR 80.54(11)(a)1.a.i.; or
      iii. is controlled through stock Ownership by a common parent firm that possesses a controlling interest in the Owner or Operator; or
   b. A firm engaged in a substantial business relationship with the Owner or Operator and issuing the guarantee as an act incident to that business relationship.

(b) Within 120 days of the close of each financial reporting year, the guarantor shall demonstrate that it meets the financial test criteria of 310 CMR 80.54(10) based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in 310 CMR 80.54(10)(d) and shall deliver the letter to the Owner or Operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within 120 days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the Owner or Operator. If the Department notifies the guarantor that s/he no longer meets the requirements of the financial test of 310 CMR 80.54(10)(b) or (c) and (d), the guarantor shall notify the Owner or Operator within ten days of receiving such notification from the Department. In both cases, the guarantee will terminate no less than 120 days after the date the Owner or Operator receives the notification, as evidenced by the return receipt. The Owner or Operator shall obtain alternative coverage as specified in 310 CMR 80.57.

(c) The guarantee shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

80.54: continued

Guarantee

Guarantee made this [date] by [name of guaranteeing entity], a business entity organized under the laws of the state of [name of state], herein referred to as guarantor, to the Massachusetts Department of Environmental Protection and to any and all third parties, and obligees, on behalf of [Owner or Operator] of [business address].

Recitals.

(1) Guarantor meets or exceeds the financial test criteria of 310 CMR 80.54(10)(b) or (c) and (d) and agrees to comply with the requirements for guarantors as specified in 310 CMR 80.54(11)(b).

(2) [Owner or Operator] owns or operates the following underground storage tank systems(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the registration submitted pursuant to 310 CMR 80.23, and the name and address of the facility.] This guarantee satisfies 310 CMR 80.51 through 80.63 requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodilyinjuryand propertydamage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank systems(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

(3) [Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is corporate parent of the Owner or Operator); "On behalf of our affiliate" (if guarantor is a related firm of the Owner or Operator); or "Incident to our business relationship with" (if guarantor is providing the guarantee as an incident to a substantial business relationship with Owner or Operator)] [Owner or Operator], guarantor guarantees to [implementing agency] and to any and all third parties that:

In the event that [Owner or Operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the Massachusetts Department of Environmental Protection has determined or suspects that a release has occurred at an underground storage tank system covered by this guarantee, the guarantor, upon instructions from the Massachusetts Department of Environmental Protection, shall fund a standbytrust fund in accordance with the provisions of 310 CMR 80.60 in an amount not to exceed the coverage limits specified above.

In the event that the Massachusetts Department of Environmental Protection determines that [Owner or Operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 310 CMR 40.0000: *Massachusetts Contingency Plan*, the guarantor upon written instructions from the Massachusetts Department of Environmental Protection shall fund a standby trust in accordance with the provisions of 310 CMR 80.60 in an amount not to exceed the coverage limits specified above.

If [Owner or Operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the Massachusetts Department of Environmental Protection, shall fund a standby trust in accordance with the provisions of 310 CMR 80.60 to satisfysuch judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of 310 CMR 80.54(10)(b) or (c) and (d), guarantor shall send within 120 days of such failure, by certified mail, notice to [Owner or Operator]. The guarantee will terminate 120 days from the date of receipt of the

notice by [Owner or Operator], as evidenced by the return receipt.

80.54: continued

(5) Guarantor agrees to notify [Owner or Operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within ten days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [Owner or Operator] pursuant to 310 CMR 80.00.

(7) Guarantor agrees to remain bound under this guarantee for so long as [Owner or Operator] must comply with the applicable financial responsibility requirements of 310 CMR 80.51 through 80.63 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [Owner or Operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [Owner or Operator], as evidenced by the return receipt.

(8) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [insert Owner or Operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert Owner or Operator] arising from, and in the course of, employment by [insert Owner or Operator];

(c) Bodily injury or property damage arising from the Ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaded to, in the care, custody, or control of, or occupied by [insert Owner or Operator] that is not the direct result of a release from a underground storage tank system;

(e) Bodily damage or property damage for which [insert Owner or Operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 310 CMR 80.52.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Massachusetts Department of Environmental Protection, by any or all third parties, or by [Owner or Operator].] by signing the following certification.

I hereby certify that: (i) the wording of this guarantee is identical to the wording specified in 310 CMR 80.54(11)(c) as such regulations were constituted on the effective date shown immediately below; and (ii) I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

(d) An Owner or Operator who uses a guarantee to satisfy the requirements of 310 CMR 80.52 shall establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instructions from the Department of Environmental Protections under 310 CMR 80.60. This standby trust fund must meet the requirements specified in 310 CMR 80.55.

80.55: Requirements for a Standby Trust

(1) Any Owner or Operator who establishes one or more of the financial assurance mechanisms at 310 CMR 80.54(3), (4), (9) or (11) shall establish a standby trust fund when the mechanism is acquired. The trustee of the standby trust fund shall be a bank or other financial institution which has the authority to act as a trustee and whose trust operations are regulated and examined by the Massachusetts Commissioner of Banks or the trustee shall be a national bank.

(2) A standby trust agreement, or trust agreement, shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Trust Agreement

This Trust Agreement, hereafter referred to as the "Agreement," is entered into as of [date] by and between [name of the Owner or Operator], a [name of State] [insert "corporation," "partnership," "association," "trust" or "individual"], hereafter referred to as the "Grantor," and [name of corporate trustee], [insert "Incorporated in the state of " or "a national bank"], hereafter referred to as the "Trustee".

Whereas, the Massachusetts Department of Environmental Protection, hereafter referred to as "the Department" an agency of the Commonwealth of Massachusetts, has established certain regulations applicable to the Grantor, requiring that the Grantor shall provide assurance that funds will be available when needed for corrective action and third-party compensation for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of the UST system(s) identified in Schedule A. Schedule A shall list the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located that are covered by the standby trust agreement.

Whereas, the Grantor has elected to establish [insert either "a "trust fund" or "standby trust fund"] to provide all or part of such financial assurance for the UST systems identified in Schedule A; and

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this Agreement, and the Trustee is willing to act as trustee;

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions

As used in this Agreement:

(a) The term "Grantor" means [name of Owner or Operator].
(b) The term "Trustee" means [name of corporate trustee], [insert "incorporated in the State of____"or "a national bank"], and any successor thereof.
(c) The terms "Department" and "Beneficiary" mean the Massachusetts Department of Environmental Protection, an agency of the Commonwealth of Massachusetts, and any successor of said Department.

Section 2. Identification of the Financial Assurance Mechanism

This Agreement pertains to the [identify the financial assurance mechanism, either a guarantee, surety bond, or letter of credit, from which the standby trust fund is established to receive payments (This paragraph is only applicable to the standby trust agreement.)].

Section 3. Establishment of Trust Fund

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Department. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. [The Fund is established "initially as a standby to receive payments

and shall not consist of any property" or "as a trust initially consisting of the property, which is acceptable to the Trustee, fully described in Schedule B".] Payments made by the provider of

80.55: continued

financial assurance pursuant to the Department's instruction are transferred to the Trustee and are referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liability of the Grantor established by the Department.

Section 4. Payment for "Corrective Action" and/or Third-Party Liability Claims"

The Trustee shall make payments from the Fund as directed by the Department in writing. Said payments shall provide for the payment of the costs of "taking corrective action" and/or compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" arising from operating the tanks covered bythis Agreement For Corrective Action and/or Third-party Liability Claims. The Trustee shall reimburse from the Fund, the Grantor or other persons as specified in writing by the Department. Such reimbursement(s) shall be in the amount(s) as the Department directs in writing.

The Fund may not be drawn upon to cover any of the following:

(a) Any obligation of [insert Owner or Operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
(b) Bodily injury to an employee of [insert Owner or Operator] arising from, and in the course of employment by [insert Owner or Operator];
(c) Bodily injury or property damage arising from the Ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert Owner or Operator] that is not the direct result of a release from a UST system;
(e) Bodily injury or property damage for which [insert Owner or Operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 310 CMR 80.52.

The Trustee shall reimburse the Grantor, or other persons as specified by the Department, from the Fund for corrective action expenditures and/or third-party liability claims in such amounts as the Department shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Department specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund

Payments made to the Trustee for the Fund shall consist of cash and securities acceptable to the Trustee.

Section 6. Trustee Management

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor maycommunicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(a) Securities or other obligations of the Grantor, any other Owner or Operator of the UST system(s) or any affiliates of the Grantor as defined in the Investment Company Act of

1940, as amended, 15 U.S.C. 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or State government;

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(b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and
(c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment

The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and
(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 *et seq*., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee

Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;
(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;
(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and
(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation

The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Department a statement confirming the value of the Trust.

Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund.

80.55: continued

Section 11. Advice of Counsel

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the interpretation of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted bylaw, in acting upon the advice of counsel.

Section 12. Trustee Compensation

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the present Trustee and the Department by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in Schedule C or such other designees as the Grantor may designate by amendment to Schedule C. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by [the Department to the Trustee shall be in writing, signed by the Commissioner or his designee], and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Department hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Department, except as provided for herein.

Section 15. Notice of Nonpayment

The Trustee shall notify the Grantor and the Department, by certified mail, within ten days following the expiration of the 30 day period after the anniversary of the establishment of the Trust, if no payment into the Fund is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement

This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee and the Department, or by the Trustee and the Department if the Grantor ceases to exist.

Section 17. Irrevocability and Termination

Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee and the Department or by the Trustee and the Department, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

80.55: continued

Section 18. Immunity and Indemnification

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or by the Department issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law

This Agreement shall be administered, construed, and enforced according to the laws of the Commonwealth of Massachusetts.

Section 20. Interpretation

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in 310 CMR 80.55(2) as in effect on the date written above.

[Signature of Grantor]

[Name of the Grantor]

[Title]

Attest:

[Signature of Trustee]

[Name of the Trustee]

[Title]

[Seal]

[Signature of Witness]

[Name of the Witness]

[Title]

[Seal]

(3) The standby trust agreement, or trust agreement, shall be accompanied by a formal certification of acknowledgement as follows, except that instructions in brackets shall be replaced with the relevant information and the brackets deleted.

State of [Name of State]_____

County of_[Name of County]_____

80.55: continued

On this [date], before me personally came [Owner or Operator] to me known, who, being by me duly sworn, did depose and say that she/he [strike one] resides at [address], that she/he [strike one]is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he [strike one] knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that she/he [strike one] signed her/his [strike one]name thereto by like order.

[Signature of Notary Public]

[]

My Commission expires [Date]

(4) The Department will instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the Department determines that no additional corrective action costs or third-party liability claims will occur as a result of a release covered by the financial assurance mechanism for which the standby trust fund was established.

(5) An Owner or Operator may establish one trust fund as the depository mechanism for all funds assured in compliance with 310 CMR 80.51 through 80.63.

80.56: Substitution of Financial Assurance Mechanisms by Owner or Operator

(1) An Owner or Operator may substitute any alternate financial assurance mechanisms as allowed in 310 CMR 80.53, provided that at all times the Owner or Operator maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of 310 CMR 80.52.

(2) After obtaining alternate financial assurance as specified 310 CMR 80.53, an Owner or Operator may cancel a financial assurance mechanism using applicable procedures.

80.57: Cancellation or Nonrenewal by a Provider of Financial Assurance

(1) Except as otherwise provided, a provider of financial assurance may cancel or not renew a financial assurance mechanism by sending a notice of termination by certified mail to the Owner or Operator. Upon receiving a notice of termination, the Owner or Operator shall notify the Department in writing, as soon as possible, but in no event later than seven business days after receiving the notice.

(a) Termination of a local government guarantee, a guarantee, a surety bond, or a letter of credit may not occur until 120 days after the date on which the Owner or Operator and the Department receives the notice of termination, as evidenced by the return receipt. If the dates of receipt are different, the later date shall control.

(b) Termination of insurance or risk retention coverage, except for non-payment or misrepresentation by the insured, may not occur until 60 days after the date on which the Owner or Operator receives the notice of termination, as evidenced by the return receipt. Termination for non-payment of premium or misrepresentation by the insured may not occur until a minimum of ten days after the date on which the Owner or Operator receives the notice of termination, as evidenced by the return receipt.

(2) If a provider of financial responsibility cancels or does not renew for reasons other than incapacity of the provider as specified in 310 CMR 80.62, the Owner or Operator shall obtain alternate coverage within 60 days after receipt of the notice of termination. If the Owner or Operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the Owner or Operator shall provide written documentation to the Department of such failure and submit:

(a) The name and address of the provider of financial assurance;

(b) The name and address of the Trustee, if applicable;

(c) The effective date of termination; and

80.57: continued

(d) A copy of the financial assurance mechanism that is being terminated.

(3) Nothing in 310 CMR 80.57 shall relieve Owners and Operators from their obligation to demonstrate and maintain financial assurance.

(4) Termination shall not relieve the Owner and Operator of any financial responsibility obligations under 310 CMR 80.51 through 80.63.

80.58: Requirements for Reporting by Owner or Operator

(1) Within 150 days of the close of the financial reporting year of the Owner or Operator, if such Owner or Operator is using 310 CMR 80.54(10)(b) to meet the requirements of 310 CMR 80.52, the Owner or Operator shall submit to the Department the following documents with an updated registration pursuant to 310 CMR 80.23(1)(b):

(a) Letter from the chief financial officer in accordance with 310 CMR 80.54(10)(d); and

(b) Year-end financial statements in accordance with 310 CMR 80.54(10)(b)5.

(2) Within 150 days of the close of the financial reporting year of the Owner or Operator, if such Owner or Operator is using 310 CMR 80.54(10)(c) to meet the requirements 310 CMR 80.52, the Owner or Operator shall submit to the Department the following documents, with an updated registration pursuant to 310 CMR 80.23(1)(b):

(a) Letter from the chief financial officer in accordance with 310 CMR 80.54(10)(d);

(b) Year-end financial statements in accordance with 310 CMR 80.54(10)(c)1.; and

(c) A special report from an independent certified public accountant, if applicable in accordance with 310 CMR 80.54(10)(c)4.

(3) Within 150 days of the close of the financial reporting year of the Owner or Operator, if such Owner or Operator is using 310 CMR 80.54(11) to meet the requirements of 310 CMR 80.52, the Owner or Operator shall submit to the Department the following documents with an updated registration pursuant to 310 CMR 80.23(1)(b):

(a) Letter from the chief financial officer in accordance with 310 CMR 80.54(11)(b); and

(b) A copy of the fully executed guarantee, if the guarantee has been amended from the previous year;

(c) A copy of the stand-by trust in accordance with 310 CMR 80.58(1), if the stand-by trust has been amended from the previous year.

(4) An Owner or Operator shall submit to the Department written documentation of its current financial assurance, if the Owner or Operator fails to obtain alternate coverage as required by 310 CMR 80.57, within 30 days after the Owner or Operator receives notice of the following from its financial assurance provider:

(a) Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a provider of financial assurance as a debtor;

(b) Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism; or

(c) Other incapacity of a provider of financial assurance.

(5) If the Owner or Operator fails to obtain alternate coverage within 60 days of cancellation of its financial assurance mechanism, the Owner or Operator shall submit information in accordance with 310 CMR 80.57(2).

(6) An Owner or Operator shall verifycompliance with the financial responsibilityrequirements of 310 CMR 80.51 through 80.63 on the compliance certification form in accordance with 310 CMR 80.34.

(7) The Department may require an Owner or Operator to submit evidence of financial assurance as described 310 CMR 80.59 or other information to determine compliance with 310 CMR 80.51 through 80.63 at any time.

80.59: Requirements for Recordkeeping

(1) An Owner or Operator shall maintain documentation, in accordance with 310 CMR 80.59, of financial assurance mechanisms used to demonstrate financial responsibility for a UST system until released from the requirements in accordance with 310 CMR 80.61. The Owner or Operator shall keep the documentation in hard copy or electronically in accordance with 310 CMR 80.36(6). Upon request from the Department, the Owner or Operator shall make the documentation available to the Department as soon as possible, but in no event more than seven business days after receiving the request.

(2) An Owner or Operator shall maintain the following documentation of financial responsibility:

(a) An Owner or Operator using the Underground Storage Tank Petroleum Cleanup Fund shall maintain a current certificate of compliance.

(b) An Owner or Operator using an insurance policy or risk retention group coverage shall maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments thereto.

(c) An Owner or Operator using a surety bond with a standby trust shall maintain a copy of the surety bond and any amendments thereto, and a copy of the signed standby trust fund agreement and any amendments thereto.

(d) An Owner or Operator using a letter of credit with a standby trust shall maintain a copy of the letter of credit and any amendments thereto, and a copy of the signed standby trust fund agreement and any amendments thereto.

(e) An Owner or Operator using a trust fund shall maintain a copy of the trust fund and any amendment thereto.

(f) An Owner or Operator using the local government bond rating test shall maintain:

1. A copy of its bond rating published within the last 12 months by Moody's or Standard & Poor's; and
2. A copy of the letter signed by the chief financial officer in accordance with 310 CMR 80.54(6)(d) or (e).

(g) An Owner or Operator using a local government fund shall maintain:

1. A copy of the state constitutional provision or local government statute, charter, ordinance, or order dedicating the fund; and
2. A copy of the letter signed by the chief financial officer in accordance with 310 CMR 80.54(7)(d); and
3. Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is established using incremental funding backed by bonding authority, the financial statements must show the previous year's balance, the amount of funding during the year, and the closing balance in the fund; and
4. If the fund is established using incremental funding backed by bonding authority, the Owner or Operator shall maintain documentation of the required bonding authority, including either the results of a voter referendum under 310 CMR 80.54(7)(c)1., or attestation by the State Attorney General as specified under 310 CMR 80.54(7)(c)2.

(h) An Owner or Operator using the local government financial test shall maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year in accordance with 310 CMR 80.54(8)©. Such evidence must be on file no later than 120 days after the close of the financial reporting year.

(i) An Owner or Operator using the local government guarantee shall maintain:

1. A copy of the signed standby trust fund agreement and copies of any amendments thereto, if the local government guarantee is supported by a standby trust.
2. A copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year in accordance with 310 CMR 80.54(8)(c), if the local government guarantee is supported by the local government financial test. Such evidence must be on file no later than 120 days after the close of the financial reporting year.
3. A copy of the guarantor's bond rating published within the last 12 months by

Moody's or Standard & Poor's, if the local government guarantee is supported by the bond rating test.

4. A copy of the guarantor's year-end financial statements for the most recent completed financial reporting year showing the amount of the fund, if the local government guarantee is supported by the local government fund.

80.59: continued

(j) An Owner or Operator using a financial test shall maintain a copy of the chief financial officer's letter and year-end financial statements for the most recent completed financial reporting year on which the financial test is based. Such evidence shall be on file no later than 120 days after the close of the financial reporting year.

(k) An Owner or Operator using a guarantee shall maintain:

1. A copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence shall be on file no later than 120 days after the close of the financial reporting year.

2. A copy of the signed standby trust fund agreement and copies of any amendments thereto.

(3) An Owner or Operator using a financial assurance mechanism specified in 310 CMR 80.54(1) through (11) shall maintain an updated copy of a certification of financial responsibility worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Certification of Financial Responsibility

[Owner or Operator] hereby certifies that it is in compliance with the requirements 310 CMR 80.51 through 80.63.

The financial assurance mechanism(s) used to demonstrate financial responsibility under 310 CMR 80.51 through 80.63 is (are) as follows:

[For each mechanism, list the type of mechanism, name of issuer, mechanism number (if applicable), amount of coverage, effective period of coverage and whether the mechanism covers "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases".]

[Signature of Owner or Operator]
[Name of Owner or Operator]
[Title]
[Date]
[Signature of witness or notary]
[Name of witness or notary]
[Date]

(a) The Owner or Operator shall update this certification whenever the financial assurance mechanism(s) used to demonstrate financial responsibility change(s).

80.60: Requirements for Drawing on Financial Assurance Mechanisms

(1) Except as specified in 310 CMR 80.60(4), the Department shall direct the Trustee to require the guarantor, surety, or institution issuing a letter of credit to place the amount of funds stipulated by the Department, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if:

(a) The Owner or Operator fails to establish alternate financial assurance in accordance with 310 CMR 80.57 within 60 days after receiving notice of termination of the guarantee, surety bond, letter of credit, or, as applicable, other financial assurance mechanism; and

(b) The Department determines or suspects in its discretion that a release from a UST system covered by the mechanism has occurred and so notifies the Owner or Operator or the Owner or Operator has notified the Department of a release from a UST system covered by the mechanism; or

(c) The commencement of a voluntary or involuntary proceeding under Title 11

(Bankruptcy), U.S. Code, naming an Owner or Operator as debtor; or

(d) The Owner or Operator has a legal existence and has failed to maintain said legal existence and no successor has assumed its legal obligations in accordance with 310 CMR 80.00; or

80.60: continued

(e) The conditions of 310 CMR 80.60(2)(a) or (2)(b)1. or 2. are satisfied.

(2) The Department may draw on a standby trust fund when:

(a) The Department makes a determination in its discretion that a release has occurred and immediate or long-term corrective action for the release is needed, and the Owner or Operator has not conducted response action; or

(b) The Department has received either:

1. Certification from the Owner or Operator and the third-party liability claimant(s) and from attorneys representing the Owner or Operator and the third-party liability claimant(s) that a third-party liability claim should be paid. The certification shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Certification of Valid Claim
The undersigned, as principals and as legal representatives of [insert: Owner or Operator] and [insert: name and address of third-party claimant], hereby certify that the claim of bodily injury [and/or] property damage caused by an accidental release arising from operating [Owner's or Operator's] underground storage tank should be paid in the amount of $[_].
[Signatures]
Owner or Operator
Attorney for Owner or Operator
(Notary)
Date
[Signatures]
Claimant(s)
Attorney(s) for Claimant(s)
(Notary)
Date

2. A valid final court order establishing a judgment against the Owner or Operator for bodily injury or property damage caused by an accidental release from a UST system covered by financial assurance under 310 CMR 80.51 through 80.63 and the Department determines that the Owner or Operator has not satisfied the judgment.

(3) If the Department determines that the amount of corrective action costs and third-party liability claims eligible for payment under 310 CMR 80.60(2) may exceed the balance of the standby trust fund and the obligation of the provider of financial assurance, the first priority for payment shall be corrective action costs necessary to protect human health and the environment. The Department shall pay third-party liability claims in the order in which the Department receives certifications under 310 CMR 80.60(2)(b)1., and valid court orders under 310 CMR 80.60(2)(b)2.

(4) If the guarantor is the state, the local government guarantee without standby trust, shall make payments as directed by the Department under the circumstances described in 310 CMR 80.60(1) through (3).

80.61: Release from Financial Responsibility Requirements

(1) The Owner and Operator are subject to the financial responsibility requirements in accordance with 310 CMR 80.51 through 80.63 unless and until the Owner or Operator complies with closure requirements at 310 CMR 80.43, in full.

(2) Upon the date of sale of a UST system or facility, the Owner and Operator shall no longer be required to maintain and demonstrate financial responsibility for the UST system or facility that was sold.

80.61: continued

(3) Release from the financial responsibility requirements shall not relieve the Owner and Operator from obligations under M.G.L. c. 21O, M.G.L. c. 21E, 310 CMR 80.00, 310 CMR 40.0000: *Massachusetts Contingency Plan* and any other applicable laws and regulations pertaining to UST systems.

80.62: Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance

(1) Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an Owner or Operator as debtor, the Owner or Operator shall notify the Department by certified mail of such commencement and submit the appropriate forms listed in 310 CMR 80.59(2) documenting current financial responsibility.

(2) Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a local government Owner or Operator as debtor, the local government Owner or Operator shall notify the Department by certified mail of such commencement and submit the appropriate documentation listed in 310 CMR 80.59(2) documenting current financial responsibility.

(3) Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing a local government financial assurance as debtor, such guarantor shall notify the local government Owner or Operator by certified mail of such commencement as required under the terms of the guarantee specified in 310 CMR 80.54(9).

(4) Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing financial assurance as debtor, such guarantor shall notify the Owner or Operator by certified mail of such commencement as required under the terms of the guarantee specified in 310 CMR 80.54(11).

(5) An Owner or Operator shall be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue an insurance policy, risk retention group coverage policy, surety bond, letter of credit, or suspension or revocation of the Underground Storage Tank Petroleum Product Cleanup Fund. The Owner or Operator shall obtain alternate financial assurance as specified in 310 CMR 80.57 within 30 days after receiving notice of such an event. If the Owner or Operator does not obtain alternate coverage within 30 days after such notification, the Owner or Operator shall notify the Department.

(6) Within 30 days after receipt of notification that the Underground Storage Tank Petroleum Product Cleanup Fund or other state assurance has become incapable of paying for assured corrective action or third-party compensation costs, the Owner or Operator shall obtain alternate financial assurance.

80.63: Requirements for Replenishment of Guarantees, Local Government Guarantees, Letters of Credit, or Surety Bonds

(1) If at any time after a standby trust is funded upon the instruction of the Department with funds drawn from a guarantee, local government guarantee with standby trust, letter of credit, or surety bond, and the amount in the standby trust is reduced below the full amount of coverage required, the Owner or Operator shall by the anniversary date of the financial mechanism from which the funds were drawn:

(a) Replenish the value of financial assurance to equal the full amount of coverage required, or

(b) Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

80.63: continued

(2) For purposes of 310 CMR 80.63(2), the full amount of coverage required is the amount of coverage to be provided by 310 CMR 80.52. If a combination of mechanisms was used to provide the assurance funds which were drawn upon, replenishment shall occur by the earliest anniversary date among the mechanisms.

REGULATORY AUTHORITY

310 CMR 80.00: M.G.L. c. 21O, § 5, c. 21C, c. 21E, § 6 and c. 21A, § 16.

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