

401 KAR 42:020. UST systems: design, construction, installation, and registration.

RELATES TO: KRS 224.01, 224.10, 224.60, Chapter 322, Chapter 322A, 40 C.F.R. Part 280 Subpart B 42 U.S.C. 6991c, 6991e, 6991k

STATUTORY AUTHORITY: KRS 224.10-100, 224.60-105,, 42 U.S.C. 6991e, 6991k

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the cabinet to develop and conduct programs that provide for the prevention, abatement, and control of contaminants that may threaten the environment. KRS 224.60-105 requires the cabinet to regulate underground storage tanks by requiring registration, minimum construction and performance standards, leak detection, recordkeeping, release reporting, corrective action, closure, financial responsibility, and other requirements to protect public health and the environment. KRS 224.60-105(3) requires the cabinet to establish a regulatory program that implements federal requirements for UST systems. This administrative regulation establishes requirements concerning performance standards, registration, designated compliance managers and UST facility employees, and alternatives for upgrading existing UST systems.

Section 1. Registrations. (1)(a) The owner shall submit, to the cabinet, a UST Facility Registration Form, DEP 7112 for each UST facility within thirty (30) days of bringing a UST system into operation.

(b) The form shall be signed by the owner and operator of the UST system.

(c) The form shall be notarized.

(2)(a) Except as established in Section 2 of this administrative regulation, the owner shall submit to the cabinet an amended UST Facility Registration Form, DEP 7112 within thirty (30) days of any change to information contained within the most recently submitted UST Facility Registration Form.

(b) The form shall be signed by the owner and operator of the UST system.

(c) The form shall be notarized.

(3) An amended UST Facility Registration Form, DEP 7112 shall be submitted for a UST system being placed into temporary closure for more than six (6) months.

(4) An unregistered UST system discovered during permanent closure activities conducted in accordance with 401 KAR 42:070 shall be listed on the Closure Assessment Report incorporated by reference in 401 KAR 42:070.

(5) With the exception of unregistered UST systems discovered during permanent closure activities in accordance with subsection (1) of this section.

Section 2. Change of Address for UST Owner. An owner shall notify the cabinet within thirty (30) days of an address change by one (1) of the following:

(1) Submittal of an amended UST Facility Registration Form, DEP 7112; or

(2) Submittal of an Address Change Form for Owners of UST Systems, DEP 0060.

Section 3. Changes of Ownership. (1) If ownership of a UST system changes, the new owner shall complete and submit an amended, signed, and notarized UST Facility Registration Form, DEP 7112, to indicate the new ownership. The form shall include the previously-assigned agency interest number and shall be submitted to the cabinet within thirty (30) days after the transaction.

(2) If an owner sells a UST system, the seller shall:

(a) Advise the new owner of the obligation to submit an amended, signed, and notarized UST Facility Registration Form, DEP 7112, to the cabinet that indicates the change in ownership; and

(b) Submit to the cabinet, within thirty (30) days after the transaction, a copy of the properly executed deed or other mutually executed legal document supporting the sale of the UST system,

along with a letter indicating the UST facility name as registered with the cabinet, the UST facility location, and the agency interest number.

Section 4. Issuance of a Certificate of Registration and Reimbursement Eligibility. Upon a determination by the cabinet that the UST Facility Registration Form, DEP 7112, is complete and accurate, the cabinet shall issue a Certificate of Registration and Reimbursement Eligibility, DEP 7113.

Section 5. Notification Requirements. Requirements for notification shall be as established in 40 C.F.R. 280.22.

Section 6. Notice and Verification of Installation of Underground Storage Tank and Piping. (1)(a) Owners shall submit the Notice of Intent to Install Underground Storage Tank or Piping, DEP 8044, to the appropriate Division of Waste Management Regional Office at least fourteen (14) days prior to installation of an underground storage tank or an entire piping run to afford the division representative the opportunity to be present during installation.

(b) If a division representative fails to be present on the date scheduled for installation, the installation may proceed.

(2) After April 1, 2012, owners and operators shall submit a Verification and Compatibility Form, DEP 7115, to the cabinet within thirty (30) days after bringing a UST system, tank, or entire piping run into operation.

Section 7. Operational Training Requirements. (1) An owner of a UST system registered, but not permanently closed, with the USTB prior to June 8, 2012 shall designate at least one (1) individual, who shall be trained in accordance with subsections (5) and (6) of this section by August 8, 2012, as the primary designated compliance manager (DCM) for the registered UST system.

(2) An owner of a UST system registered, but not permanently closed, on or after June 8, 2012 shall designate at least one (1) individual who shall be trained in accordance with subsections (5) and (6) of this section within sixty (60) days of registration, as the primary designated compliance manager (DCM) for the registered UST system.

(3) If the primary DCM no longer holds DCM status, the owner shall, within thirty (30) days, designate another individual as primary DCM who shall obtain training in accordance with subsections (5) and (6) of this section within thirty (30) days of designation. An owner:

(4)(a) Shall designate a primary DCM who may receive compliance related correspondence from the Underground Storage Tank Branch. An owner:

1. May designate themselves as the primary DCM; or
2. May designate another individual as the primary DCM; and

(b) May designate multiple individuals as an associate DCM for a UST system.

(5) Except as provided in this subsection, operational training, in accordance with this administrative regulation, shall be accomplished through use of the cabinet training system. Individuals unable to use or access the cabinet training system shall contact the Underground Storage Tank Branch for alternate designation and operational training procedures.

(6) Through completion of operational training in accordance with subsection (5) of this section, a DCM shall demonstrate an in-depth understanding of:

(a) UST system operation, maintenance, inspection, and testing requirements including, at a minimum: UST system spill prevention, overflow prevention, release detection, secondary containment, corrosion protection, product compatibility, and notification requirements as applicable to the current configuration of the UST system in accordance with this administrative regulation and 401 KAR 42:030, and 42:040;

- (b) UST system recordkeeping requirements in accordance with 401 KAR 42:030 and 42:040;
 - (c) UST system release reporting, release response, temporary closure, permanent closure, initial abatement, and financial responsibility requirements in accordance with 401 KAR 42:050, 42:060, 42:070, and 42:090;
 - (d) All relevant equipment and its compliance with performance standards in accordance with 401 KAR 42:030 and 42:040;
 - (e) Requirements for delivery prohibition in accordance with 401 KAR 42:045; and
 - (f) UST facility employee training requirements in accordance with Section 8 of this administrative regulation.
- (7) The owner shall ensure that the primary DCM successfully repeat the training annually, within twelve (12) months of the most recent training date.

Section 8. UST Facility Employee Training Requirements. (1) The owner or operator shall ensure that all employees associated with the operation of the UST system receive training, by August 8, 2012 and every twelve (12) months thereafter, in the following areas:

- (a) Response to an equipment alarms;
- (b) Fire extinguisher operation;
- (c) Spill and overfill response;
- (d) Threat to the public or to the environment caused by spills or releases;
- (e) Emergency shut-off procedures; and
- (f) Contact telephone numbers in response to emergencies caused by a release or a threatened release from a UST system.

(2) The owner or operator shall maintain a list of all employees trained in accordance with this administrative regulation. The owner or operator shall maintain written records of all training documentation supplied to UST facility employees and shall make those records available to the cabinet upon request.

Section 9. Performance Standards for New UST Systems. (1) Performance standards for new UST systems shall be as established in 40 C.F.R. 280.20; and

(2) In addition to the performance standards in subsection (1) of this section, UST systems installed after April 1, 2012 shall meet the performance standards of Section 11 of this administrative regulation.

Section 10. Upgrading of existing UST systems. Upgrading requirements for existing UST systems shall be as established in 40 C.F.R. 280.21.

Section 11. Double-Walled Tanks and Piping. (1) All UST systems installed, or UST systems changing from storage of a non-regulated substance to storage of a regulated substance, on or after April 1, 2012 shall be designed and manufactured with double-walled construction and shall meet the requirements in the UST System Installation and Maintenance Outline, including continuous electronic interstitial monitoring.

(2) All existing single-walled piping shall be permanently closed in accordance with 401 KAR 42:070 if an associated UST is permanently closed.

(3) Owners and operators shall install double-walled piping in accordance with the UST System Installation and Maintenance Outline if 100 percent of a piping run, extending from the tank to the farthest dispenser or other end-use equipment, excluding connectors, is replaced.

(4) Newly installed piping that is associated with a newly installed UST system dispenser, located in an area where a UST system dispenser did not previously exist, shall be designed and manufactured with double-walled construction and shall meet the requirements in the UST System In-

stallation and Maintenance Outline.

(5) An existing tank may be removed and reinstalled if:

(a) The tank meets the requirements of the UST System Installation and Maintenance Outline;

(b) The tank is inspected and tested by the equipment's manufacturer prior to being reinstalled;

and

(c) The owner or operator provides a written certification from the manufacturer that the tank is suitable for reinstallation.

Section 12. Under-Dispenser Containment (UDC) and Sumps. (1) Beginning April 1, 2012, all newly installed UST system dispensers, located in an area where a UST system dispenser did not previously exist, shall have liquid-tight UDC installed in accordance with this administrative regulation and the UST System Installation and Maintenance Outline.

(2) If equipment below the shear valve used to connect an existing UST system dispenser to the piping is replaced on or after April 1, 2012, liquid-tight UDC shall be installed in accordance with this administrative regulation and the UST System Installation and Maintenance Outline.

(3) All sumps containing product piping, installed in conjunction with a UST system installed on or after April 1, 2012 shall meet the liquid-tight containment requirements in the UST System Installation and Maintenance Outline.

(4) If replaced, a sump installed in accordance with subsection (3) of this section shall meet the liquid-tight containment requirements in the UST System Installation and Maintenance Outline.

(5) Owners or operators shall maintain written records of all installations of sumps and UDC, installed after April 1, 2012, for the operating life of the sump or UDC. These records shall be made available to the cabinet upon request.

(6) If a sump sensor monitoring device detects the presence of a liquid, the owner or operator shall ensure that the sump is immediately inspected.

(a)1. If free product is discovered within a sump, a suspected release shall be reported in accordance with 401 KAR 42:050; and

2. Free product shall be recovered and disposed of properly in accordance with KRS Chapter 224;

(b) If liquid, other than free product, is discovered within a sump, the sump shall be further inspected to determine the source of liquid infiltration and repaired as necessary.

Section 13. Emergency Shutoff Valves. (1) All pressurized piping systems that connect tanks to UST system dispensers shall be installed with emergency shutoff valves for each supply line at the base of each UST system dispenser.

(2) The emergency shutoff valves shall be rigidly anchored to the UST system dispenser island or another appropriate anchoring point in a manner that allows the emergency shutoff valve to close automatically in the event of severe impact to a UST system dispenser.

(3) An emergency shutoff valve found to be defective, inoperable, leaking, not functioning as designed by the manufacturer, or not rigidly anchored shall be immediately repaired or replaced by the owner or operator.

Section 14. Nonmetallic Piping. (1) All new or replaced underground nonmetallic piping installed after April 1, 2012 shall meet or exceed the Standard for Safety established by Underwriters Laboratories Inc. in Standard for Nonmetallic Underground Piping for Flammable Liquids - UL 971.

(2) The owner or operator shall repair non-metallic piping in accordance with 401 KAR 42:030 or permanently close non-metallic piping in accordance with 401 KAR 42:070 if the piping exhibits any of the conditions identified in UST Systems: Inspecting and Maintaining Sumps and Spill Buckets, EPA 510-R-05-001.

Section 15. Extensions. (1) The owner or operator of a UST system may request an extension to a deadline established by this administrative regulation or established by the cabinet in writing pursuant to this administrative regulation.

(2) The extension request shall be submitted in writing and received by the Division of Waste Management prior to the deadline.

(3) The cabinet may grant an extension, if an extension would not have a detrimental impact on human health or the environment.

Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "UST Facility Registration Form", DEP 7112, November 2016;

(b) "Address Change Form for Owners of UST Systems", DEP 0060, November 2016;

(c) "Certificate of Registration and Reimbursement Eligibility", DEP 7113, April 2011; and

(d) "UST System Installation and Maintenance Outline", November 2016;

(e) "Notice of Intent to Install Underground Storage Tank or Piping", DEP 8044, September 2011;

(f) "Installation Verification and Compatibility Form", DEP 7115, November 2016;

(g) "Standards for Nonmetallic Underground Piping for Flammable Liquids", July 1, 2005, Underwriters Laboratories Inc. UL-971; and

(h) "UST Systems: Inspecting and Maintaining Sumps and Spill Buckets", EPA 510-R-05-001, May 2005.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be obtained at the Division of Waste Management's Web site at <http://waste.ky.gov/ust>. (17 Ky.R. 1637; 1994; eff. 12-19-1990; 22 Ky.R. 318; 920; eff. 11-14-1995; 32 Ky.R. 2113; 33 Ky.R. 461; 736; eff. 9-13-2006; 37 Ky.R. 2693; 514; eff. 10-6-2011; TAm eff. 7-8-2016; TAm eff. 12-21-2016; Crt eff. 10-9-2018.)