

## **Board Information Item**

### **Proposed changes to R311, Underground Storage Tank Rules**

The Division of Environmental Response and Remediation (DERR) is proposing changes to R311, the Utah Underground Storage Tank (UST) rules. These changes are presented as an information item.

#### **Background:**

New Federal Underground storage tank regulations became effective on October 13, 2015. The new regulations have additional requirements for UST owner/operators, most of which take effect on October 13, 2018. To maintain program approval from the EPA, the DERR UST program and rules must be at least as stringent as the federal UST regulations. The DERR is proposing to incorporate by reference most of the new federal regulations, and make other changes to the Utah UST rules to administer the regulations. Other changes are proposed to simplify the state rules and remove wording that is redundant or no longer applies. The proposed changes were presented to the UST Advisory Task Force on April 20, 2016. The DERR has requested comments from UST stakeholders, and will accept comments during this informal period until July 1, 2016.

A summary of the proposed changes appears below, and the text of the changes can be found at [www.deq.utah.gov/Divisions/derr/branches/ust/proposedR311.htm](http://www.deq.utah.gov/Divisions/derr/branches/ust/proposedR311.htm). In the rule text document, wording to be added is underlined, and wording to be removed is ~~struck out~~.

#### **Proposed Changes:**

##### **R311-200, Definitions**

- R311-200-1(b). Remove definitions that are no longer needed, due to changes in the federal UST regulations or changes in the state UST rules.
- R311-200-1(b)(55). Modify the definition of UST Testing to include new types of testing that are now part of the federal regulations or the state rules.

##### **R311-201, Certification and Operator training**

- Remove dates that defined when UST-related activities initially had to be done by a certified individual. The dates are long past, so they are no longer needed in rule.
- R311-201-2(c)(2). Specify which types of UST testing can be performed by a certified installer or installer technician.
- R311-201-2(c)(3). Add new types of testing to the section that specifies that tester certification only applies to the test equipment for which the tester has been trained by the equipment manufacturer.
- R311-201-4(c)(2). Reword UST tester training requirements, for clarity.
- R311-201-6. Modify standards of performance to create an initial section that refers to all certified individuals and separate sections for each certification type. Removes duplication.
- R311-201-7. Remove a reference to the Board hearing certification-related appeals. By statute, the Board no longer hears these cases.
- R311-201-12(h) and (i). Move sections on UST operator inspections and requirements for un-attended facilities to R311-203-7 and 203-8.

- R311-201-12(i)(4). Clarify the sequence of events if an A or B operator must re-train due to compliance issues, and does not re-train within the specific period- lapse operator registration.

### **R311-202, Incorporation by Reference**

- Incorporate most of the new federal UST regulations by reference and modify some compliance dates in the new regulations because the dates have already passed. Subpart J (operator training) and the definitions related to operator training will not be adopted.

### **Summary of the principal changes to 40 CFR 280, the federal UST regulations**

- Regulations are effective as of October 13, 2015, but most new requirements do not take effect until October 13, 2018.
- 280.20 Secondary containment required for all new tanks, piping, and dispensers.
- Subpart J. Operator training requirements.
- Periodic operation and maintenance requirements for USTs
  - 280.35. Testing of spill prevention equipment, overfill prevention devices, and containment sumps used for interstitial monitoring.
  - 280.36. Periodic operation and maintenance walkthrough inspections.
  - 280.40(a)(3). Annual testing/inspection of electronic and mechanical release detection components.
- Addressing deferrals
  - 280.10(1). Leak detection now required for emergency generator tanks.
  - Subpart K. Full regulation of airport hydrant systems and field-constructed tanks.
- 280.43(h). Add new release detection technologies (SIR).
- Update codes of practice.
- Corrections and technical amendments.
- 280.32. Requirements to demonstrate compatibility of equipment with the substance stored.
- 280.41(a) and (b). Interstitial monitoring for new tanks and piping.
- 40 CFR 281. States must re-apply for State Program Approval

### **R311-203, Technical Standards**

- R311-203-4(g). Add a statement to clarify the fees to be paid for non-notified tanks that are discovered and removed promptly.
- R311-203-5. Remove testing requirements that are now included in the federal regulations.
- R311-203-6. Modify the secondary containment rule, because most of it is now covered in the federal regulations. Keep only the parts that clarify the federal regulations.
- R311-203-7 and R311-203-8. Add operator inspection rule and requirements for un-attended facilities. Moved from R311-201-12.
- R311-203-7. Modify the operator inspection rule and the operator inspection form to conform to the new federal regulations. Remove incorporation by reference for the operator inspection form.

### **R311-205, Site Assessment**

- R311-205-2(d). Include the lab analysis method for soil samples taken to determine contamination by new oil and used oil. Rule as currently written includes only the analysis method for water samples.

### **R311-206 Financial Responsibility**

- R311-206-3(a)(8). Add a requirement that the completed tank manufacturer's installation checklist is submitted for issuance of a certificate of compliance for new tanks.

- R311-206-4(e). Remove references to fiscal year 1998 in the rule that specifies the requirements for auditing of facility throughput records.
- R311-206-5. Remove the requirement for yearly submittal of alternate financial responsibility documents in cases where an insurance policy has a term longer than one year.
- R311-206-6(b)(2). Change the citation referencing the adoption of the state fire code. It has been moved in state law.
- R311-206-11. Re-word the requirements for Environmental Assurance program rebate, for clarity.

**R311-212, PST Loan Program**

- R311-212-7. Add wording to clarify the amount of the initial disbursement that can be made on approved loans.
- R311-212-10. Incorporate by reference a new loan application form that includes wording to clarify the initial disbursement amount.

The tentative adoption schedule for the proposed rule changes is:

Request for comments from UST Stakeholders	June 2016
Request for Board approval for publication and public comment	August 11, 2016
Publication in the Utah State Bulletin	September 1, 2016
Public comment period	Sept. 1, 2016 to Sept. 30, 2016
Public hearing (date tentative)	September 14, 2016
Board approval for final adoption	October 13, 2016
Final effective date of new rules	December 1, 2016

This schedule will be modified if the Board does not meet in August.