

Subchapter 1: GENERAL PROVISIONS

§ 8-101 AUTHORITY

These rules are adopted by the Secretary of the Agency of Natural Resources pursuant to the authority granted by **10 V.S.A. Chapters 59 and 159**.

§ 8-102 PURPOSE AND APPLICABILITY

These rules are intended to protect public health and the environment by establishing standards for the design, installation, operation, maintenance, monitoring and closure of underground storage tanks. These rules apply to persons who own or operate, install, remove, repair, or test underground storage tank systems.

§ 8-103 EMERGENCY AND CORRECTIVE ACTIONS

(a) Emergency actions

- (1) In the event of a release of a hazardous material or a regulated substance at a facility, the owner or operator shall:
 - (A) Take all appropriate immediate actions to protect human health and the environment including, but not limited to, emergency containment measures and reporting as described in **subsection (a)(2)(A) of this section**; and
 - (B) Take any further clean up actions as may be required and approved by federal, state, or local officials, or corrective actions as specified under **subsection (d) of this section** so that the released material or substance and related contaminated materials no longer present a hazard to human health or the environment.

(2) Initial reporting

(A) Releases

All releases including spills and overfills, that meet any of the following criteria shall be immediately reported to the Secretary by the owner or operator of the underground storage tank system, or by the person or persons exercising control over the underground storage tank system at the time of the release. Reporting is accomplished by calling the Waste Management Division at (802) 241-3888, Monday through Friday, 7:45

VERMONT UNDERGROUND STORAGE TANK RULES

a.m. to 4:30 p.m. or the Department of Public Safety, Emergency Management Division at (800) 641-5005, 24 hours/day.

- (i) A release of hazardous material or regulated substance that exceeds 2 gallons;
- (ii) A release of hazardous material or regulated substance that is less than or equal to 2 gallons and poses a potential or actual threat to human health or the environment; or
- (iii) A release of hazardous material or regulated substance that equals or exceeds its corresponding reportable quantity under CERCLA as specified under **40 CFR § 302.4**.

Note: Under the Federal Water Pollution Control Act, certain spills of “oil” and/or “hazardous substances” are prohibited and shall be reported pursuant to the requirements of **40 CFR Part 110 / Discharge of Oil**. Certain spills of hazardous substances shall also be reported pursuant to CERCLA. In both cases, the National Response Center shall be notified at (800) 424-8802. Finally, in addition to federal and state spill reporting, EPCRA requires that spills are also reported to local authorities.

- (B) Suspected releases. The owner or operator of an underground storage tank system shall report any suspected release to the Secretary immediately upon discovery. Reporting is accomplished by calling the numbers listed in **subsection (a)(2)(A) of this section**. Reasons to report a suspected release include, but are not limited to, any of the following conditions:
 - (i) Unusual operating conditions of underground storage tank system equipment, including but not limited to a loss of prime in product piping, erratic functioning of dispensing equipment, the infiltration of water into the underground storage tank system, or an unexplained loss of regulated substance from the underground storage tank system;
 - (ii) Monitoring or testing results from any release detection method in **§§ 8-505, 8-506, or 8-507** that suggest a release may have occurred.
 - (iii) Environmental conditions present at the facility or off the site that suggest a release may have occurred.

- (3) Written follow-up report

- (A) A written report shall be submitted to the Secretary within ten (10) days following any release subject to **subsection (a)(1) of this section**. The report should be sent to: The Vermont Department of Environmental Conservation, Waste Management Division, 103 South Main Street, Waterbury, VT 05671-0404.
 - (B) The person responsible for submitting the written report may request that it not be submitted for small releases that were reported pursuant to **subsection (a)(2)(A) of this section**, and that have been entirely remediated within the ten (10) day period immediately following the release.
 - (C) The investigation report required under **subsection (b)(4) of this section** may be included as part of the written follow-up report required by this subsection.
- (4) All clean up debris and residues that are hazardous waste shall be managed in accordance with the **Vermont Hazardous Waste Management Regulations**.
- (b) Investigation of a release or suspected release
- (1) The owner or operator of an underground storage tank system shall investigate any release or suspected release using one or more of the following methods, as specified by the Secretary:
 - (A) Methods of release detection found in §§ **8-505, 8-506, and 8-507**;
 - (B) Tightness testing pursuant to **subsection (c) of this section**;
 - (C) Excavation of the system to the extent necessary for visual inspection;
 - (D) Environmental sampling and measurement conducted by a professional environmental consultant or engineer with experience in sampling (i.e. monitoring wells, soil gas survey, etc.); or
 - (E) Another method approved by the Secretary.
 - (2) In no case may positive air pressure testing be used to test piping or tanks that contain flammable or combustible liquids or vapors.
 - (3) Scope of investigation. The investigation required by **subsection (1) of this section** shall determine if a release to the environment occurred, and if so, the following:
 - (A) The most likely source of the release;

VERMONT UNDERGROUND STORAGE TANK RULES

- (B) A determination of whether any underground storage tank system or component thereof may have caused or contributed to the release, and if so, a statement indicating whether the system or component has since been repaired, replaced or taken out of service;
 - (C) The extent and estimated quantity of the release, and whether free product is present;
 - (D) If and how any sensitive receptors have been or are likely to be affected by the release;
 - (E) Pertinent information about the site including information on subsurface soil conditions and the location of any nearby subsurface conduits or preferential pathways; and
 - (F) Any other information required by the Secretary.
- (4) A report summarizing the investigation shall be submitted to the Secretary within 10 days of the date the release or suspected release was discovered. The information required by this report may be included as part of the written follow-up report required by **subsection (a)(3) of this section**.
- (c) Tightness Testing
- (1) All tightness testing equipment and methods shall be third-party certified as capable of detecting a leak rate of one-tenth gallon per hour from any portion of the underground storage tank system that routinely contains regulated substance, with at least 95% probability of detection and at most 5% probability of false alarm.

Note: The National Work Group on Leak Detection Evaluation maintains a list of tightness test equipment and methods that have been third-party certified at: <http://www.nwglde.org/>
 - (2) Tightness tests shall be performed by a person trained in the proper operation and maintenance of testing equipment in accordance with manufacturer protocols and certification requirements.
 - (3) Tightness test results shall be reported to the Secretary immediately upon completion of the test.
 - (4) A written report shall be submitted to the Secretary within 5 business days of the completion of the tightness test and include at least the following information:

VERMONT UNDERGROUND STORAGE TANK RULES

(A) The facility name, address and identification number;

Note: Facility identification numbers are assigned by the Secretary upon issuance of a permit or processing of a notification form.

(B) The name, address, and phone number of the tank owner;

(C) The name, address, and phone number of the company that conducted the tightness test, and the name of the person(s) who performed the test.

(D) The test date;

(E) An accurate facility map that identifies all tanks on site, and the location of any monitoring well used in the test procedure;

(F) All components tested (e.g., piping and/or tank(s)), and the capacity of any tank tested;

(G) The type of regulated substance stored in the underground storage tank system tested;

(H) The test method used;

(I) The depth from the ground surface to the water table, if required by the tightness test method, and a description of the method used to measure the depth to the water table; and

(J) The test results including all readings and printouts of computer generated data.

(d) Corrective actions. If the Secretary determines that a release of hazardous material or regulated substance has not been adequately addressed under **subsection (a) of this section** the Secretary may require that the person or persons responsible pursuant to **10 V.S.A. § 6615** comply with the corrective action procedures of **10 V.S.A. § 6615b**.

(e) Soils and debris contaminated with petroleum products or any other regulated substances shall be handled in accordance with the requirements of the **Vermont Hazardous Waste Management Regulations**.

(f) Monitoring wells, recovery wells, and observation wells shall be constructed and maintained at all times in a condition that will prevent contamination of the groundwater resulting from a spill of regulated substance on the ground surface.

(g) Public Notice.

VERMONT UNDERGROUND STORAGE TANK RULES

(1) The Secretary shall provide notice to the affected public for any confirmed release requiring a plan for corrective action. Such notice may include, but is not limited to public notice in local newspapers, block advertisements, public service announcements, publication in a State register, letters to individual households or municipal officials or personal contacts by field staff.

(2) Upon request, the Secretary shall make available information to inform the interested public of the nature of the release and the corrective action measures planned or taken.

§ 8-104 SIGNATORIES TO PERMITS AND REPORTS

(a) Permit applications and all reports required by permits or by the Secretary shall be signed as follows:

(1) For a corporation, by a responsible corporate officer. A responsible corporate officer means:

(A) A president, secretary, treasurer or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one or more manufacturing, production, or operating facilities if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(3) For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes:

(A) The chief executive officer of the agency; or

(B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(b) All other information requested or required by the Secretary shall be signed by a person described in **subsection (a) of this section**, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in **subsection (a) of this section**;

- (2) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
- (3) The written authorization is submitted to the Secretary.
- (c) If an authorization described in **subsection (b) of this section** is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirement of **subsection (b) of this section** shall be submitted to the Secretary prior to or together with any documents signed by an authorized representative.
- (d) Certification. Any person signing a document pursuant to **subsections (a) or (b) of this section** shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

§ 8-105 INCORPORATION BY REFERENCE

When reference is made to CFR titles, their parts, subparts, or sections, the reference is to titles of the Code of Federal Regulations as they existed on July 1, 2006.

§ 8-106 IMPLEMENTATION

The Secretary shall consult with other agencies of state government if an action or decision hereunder may conflict with any statute or rule within the authority of such other agency.

§ 8-107 FEES

Fees related to underground storage tank systems are established in **3 V.S.A. § 2822(j)**.

VERMONT UNDERGROUND STORAGE TANK RULES

§ 8-108 SEVERABILITY

The provisions of any section of these rules are severable. If any provision of these rules is invalid or if any application of these rules to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

§ 8-109 VARIANCES

- (a) The Secretary may grant a variance for one or more of the specific provisions of these rules provided that the person requesting the variance can demonstrate to the satisfaction of the Secretary that the proposed new or alternative technology, method, or application (e.g. equipment, designs, practices or methods) will protect human health and the environment in a manner that is at least equivalent to the regulatory provision(s) for which a variance is sought.
- (b) Requests for a variance shall be made in writing. Such requests shall identify the manner in which the proposal varies from the provisions of these rules, and the basis for finding that the proposal provides a level of protection as required in **subsection (a) of this section**. The Secretary may require that additional information be submitted by the person requesting the variance.
- (c) In granting a variance the Secretary may impose specific conditions necessary to assure a level of protection of human health and the environment at least equivalent to that provided under these rules.
- (d) The Secretary may grant a variance for a particular class or category of innovative or alternative technology in accordance with the requirements of this section.

END OF SUBCHAPTER ONE