

From: "Maria C. Lebron" <MLEbron@tceq.state.tx.us>
To: "TRRP Information" <trrp@listserv.tceq.state.tx.us>
Date: 3/4/2009 1:49 PM
Subject: 30 TAC 334-350 rule changes

Changes to LPST cleanups

On February 25, 2009, the commission adopted changes to Chapter 334, Underground and Aboveground Storage Tanks and Chapter 350, Texas Risk Reduction Program (TRRP) to remove Leaking Petroleum Storage Tank (LPST) sites from TRRP. These rules are effective on March 19, 2009. All LPST sites must follow the requirements of the Chapter 334 rule and guidance (<http://www.tceq.state.tx.us/nav/cleanups/pst.html>).

The rule changes may influence the corrective action necessary at LPST sites currently under TRRP. Responsible parties/persons should evaluate site information to determine if the closure requirements under Chapter 334 rules and guidance have been met or if additional assessment and cleanup is needed.

Any TRRP reports submitted (APAR, RAP, etc.) will not have to be re-submitted using the 334 report formats. Any reports submitted on or after **May 1, 2009** should use the applicable 334 rules and guidance formats.

Outline of PST Rule Changes

(effective on 01/01/2009)

30 TAC CHAPTER 334 - SUBCHAPTER A

334.2 – Definitions

The definition of “Motor Fuels” and Petroleum Product” have been amended to include the new fuel blend on the market today (ie...biodiesel, alcohol blends).

334.8 – Certification for UST Systems

Wording added that exempts empty & out-of-service USTs from self-certification requirements.

Also, now requires proof of financial assurance be filed as part of annual self-certification in order to receive a “Delivery Certificate”.

30 TAC CHAPTER 334 - SUBCHAPTER B

334.21 – Fee Assessments

Beginning September 1, 2007, the PST program stopped assessing the \$50 per tank annual registration fee. Fees still owed from prior years must still be paid.

30 TAC CHAPTER 334 - SUBCHAPTER C

334.42 – General Standards

All new and existing Spill Containers are required to be inspected at least every 60 days for any problems (ie...cracks in bucket bottom or sidewalls, slip-on adaptor ring disconnected). Note: most new double-wall spill buckets have interstitial gauging points.

Also, must properly remove & dispose of any liquid or debris within 72 hours of discovery.

Furthermore, the facility must keep written records documenting the inspections as per 334.48(g). Information should list the following: person performing the inspection, date of inspection, findings at each spill container (ie...regular bucket – 2” of fuel), and actions taken (ie...fuel drained into UST & bucket wiped clean w/ absorbent pad).

This inspection & record keeping requirement also applies to dispenser sumps & submersible pump sumps on existing UST systems (installed prior to 01/01/2009) only if the sumps are used as an integral part of release detection for the product piping (ie...interstitial monitoring of the double-walled product lines via drainage to a liquid sensor in the sump).

Who can perform these inspections? Any qualified person...a person who has been trained as to what to look for...this could be a store clerk. No current industry standard.

30 TAC CHAPTER 334 - SUBCHAPTER C (continued)

334.45 – Technical Standards for New UST Systems

All new UST system installations (installed on or after 01/01/2009) must meet the following requirements:

All new tanks and product piping must be secondarily contained. Two options to meet this requirement are “double-walled” or “jacketed”. The interstitial spaces of the new tanks & product lines must be monitored for release detection.

All new systems are required to have liquid tight containment sumps installed at all submersible pumps and under all dispensers. All sumps must be equipped with liquid sensing probes which will alert the tank system owner or operator if more than 2” of liquid collects in any sump. Note: “Beadreau” sensors are approved.

The sumps on all new systems are required to be inspected for tightness annually and tested for tightness immediately after installation & every 3 years thereafter.

Other items of note:

If more than 20% of a product line is replaced, then the entire line must be replaced and must meet the new rule requirements (double-walled, sumps, liquid sensors, inspected for tightness annually and tested for tightness immediately after installation & every 3 years thereafter).

New Dispensers – if a site replaces a dispenser or adds on a dispenser, a liquid tight sump is required to be installed, inspected, & tested unless no modifications were made to the piping components (ie...new flex connectors, new piping risers).

If your site has some unusual circumstance, you can always request a variance through Mr. Anton Rozsypal (512-239-5575).

30 TAC CHAPTER 334 - SUBCHAPTER F

334.125 – Fee Assessments for ASTs

Beginning September 1, 2007, the PST program stopped assessing the \$25 per tank annual registration fee. Fees still owed from prior years must still be paid.

30 TAC CHAPTER 334 - SUBCHAPTER H

334.301 – Reimbursement Program

Wording modified indicating the extension of the PST Remediation fund another 4 years.

New dates for deadlines are as follows:

Complete work at site by August 31, 2011....submit claim by March 1, 2012.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners **Date:** February 6, 2009
Thru: LaDonna Castañuela, Chief Clerk
Mark Vickery, P.G., Executive Director
From: John Sadlier, Deputy Director
Office of Compliance and Enforcement
Docket No.: 2008-1632-RUL
Subject: Commission Approval for Rulemaking Adoption
Chapter 334, Underground and Aboveground Storage Tanks
Chapter 350, Texas Risk Reduction Program
Leaking Petroleum Storage Tanks
Rule Project No. 2009-003-350-PR

Scope of the rulemaking:

These rule changes would amend Chapters 334 and 350, by eliminating language in both of those chapters requiring compliance with Chapter 350 for the assessment, response actions, and post-response action care for releases of regulated substances from underground storage tank (UST) systems or aboveground storage tanks (ASTs).

Reasons for the rule package:

This rulemaking will amend Chapter 334, Underground and Aboveground Storage Tanks and Chapter 350, Texas Risk Reduction Program to remove Leaking Petroleum Storage Tank (LPST) sites from the Texas Risk Reduction Program (TRRP). This rule is prompted by language contained in House Bill (HB) 3554 (Author: Representative Carl Isett; Sponsor: Senator Robert Duncan), 80th Legislative Session, relating to risk based corrective action.

Statutory Authority:

Texas Water Code (TWC), §5.012, which provides that the commission is the agency responsible for implementing the constitution and laws of the state relating to the conservation of natural resources and protection of the environment; TWC, §5.103, which authorizes the commission to adopt any rules necessary to carry out its powers and duties under this code and other laws of this state and to adopt rules repealing any statement of general applicability that interprets law or policy; TWC §5.105, which directs the commission to establish and approve all general policy of the commission by rule; TWC, §26.345, which authorizes the commission to develop a regulatory program and to adopt rules regarding USTs; TWC, §26.351, which directs the commission to adopt rules establishing the requirements for taking corrective action in response to a release from a UST or AST; and TWC, §26.011, which requires the commission to control the quality of water by rule.

Potentially controversial matters:

The issue contained in this rule may be regarded as controversial to those who favor the use of TRRP for the remediation for LPST sites.

Re: Docket No. 2008-1632-RUL

The rules were published in the November 21, 2008 issue of the *Texas Register* (33 TexReg 9433). A stakeholder meeting was held in Austin on December 11, 2008. A public hearing was held in Austin on December 16, 2008. The comment period closed on January 5, 2009. The commission received written comments from: ATC associates Inc. (ATC); Brookshire Brothers, Ltd. (Brookshire Brothers); Chambers Pump Service, Inc. (Chambers); Clear Fork Consulting Services (Clear Fork); GSI Environmental (GSI); Lowerre, Frederick, Perales, Allmon & Rockwell on behalf of their law firm, and on behalf of Clean Water Action, Texas Center for Policy Studies, Texas Conservation Alliance, Environment Texas, Public Citizen, Sierra Club (Lone Star Chapter), Sustainable Energy & Economic Development Coalition, Texas Campaign for the Environment, and Environmental Defense Fund (Lowerre et al); Texas Oil & Gas Association (TxOGA); Texas Petroleum Marketers and Convenience Store Association (TPCA); Valero Retail Holdings, Inc. (Valero); and an individual.

ATC, Brookshire Brothers, Chambers, Clear Fork, TxOGA, TPCA, and Valero were in favor of the proposed rules changes. Lowerre et al, and one individual objected to any removal of LPST sites from TRRP, without suggesting alternate language. GSI was not clearly in favor or against, but did suggest delaying the effective date of implementation of this rule to ensure consistency with updated guidance documents. Changes were not made in response to these comments.

Significant changes from proposal:

No changes from proposal were made in response to comments.

Key points in adoption rulemaking schedule:

<i>Texas Register</i> proposal publication date:	November 21, 2008
Six-month <i>Texas Register</i> filing deadline:	May 5, 2009
Anticipated <i>Texas Register</i> publication date:	March 13, 2009
Anticipated effective date:	March 19, 2009

Agency contacts:

Anton E. Rozsypal, Jr., P.E, Rule Project Manager, 239-5755
Cullen McMorrow, Staff Attorney, 239-0607
Michael Parrish, Texas Register Coordinator, 239-2548

Attachments

cc: Chief Clerk, 5 copies
Executive Director's Office
David C. Schanbacher, P.E.
Daniel Womack
Betsy Bird
Kevin Patteson
Office of General Counsel
Anton Rozsypal
Maria LeBron
Michael Parrish



ORVR SYSTEMS ON NEW VEHICLES

INFORMATION FOR OWNERS & OPERATORS OF GASOLINE DISPENSING FACILITIES

Owners and operators of gasoline dispensing facilities should be aware that many new cars will now be equipped with special devices designed to reduce the emissions of gasoline vapors during vehicle refueling. These devices, called "ONBOARD REFUELING VAPOR RECOVERY" (ORVR) SYSTEMS, are now required by federal law (1990 Clean Air Act Amendments), and will first appear as standard equipment on 40% of all passenger cars marketed by automobile manufacturers in the 1998 model year.

● **WHAT ARE THESE DEVICES SUPPOSED TO DO ?**

At conventional gasoline dispensing facilities, excess gasoline vapors are emitted directly into the atmosphere during vehicle refueling. These vapors are initially formed inside the vehicle fuel tank in the space above the liquid fuel. When the vehicle fuel tank is refilled with liquid gasoline, these vapors are displaced and forced out through the vehicle's fill pipe into the atmosphere. This is the main reason that we often smell a strong gasoline odor when we refuel our vehicle's gasoline tank.

When gasoline is dispensed into an ORVR-equipped vehicle, an O-ring seal or a dynamic liquid seal (depending on vehicle) in a specially-designed vehicle fill neck prevents vapors from escaping through the fill opening. As the liquid gasoline enters the vehicle fuel tank, the vapors in the tank are forced through a vent system to a special *onboard canister* in which activated charcoal temporarily adsorbs the vapors. When normal vehicle operation is resumed, the vapors are drawn from the activated charcoal and then are metered, mixed with intake air, and used for engine fuel. This process is designed to reduce gasoline vapor emissions during conventional refueling of ORVR-equipped vehicles by at least 95%.

Customers, employees, and others who are exposed to excess gasoline vapors can experience dizziness, headaches, nausea, or irritation of the skin, eyes, throat, and/or nose. Gasoline vapor is one type of *volatile organic compound (VOC)*, which contributes to the formation of *ground-level ozone*. Ozone is toxic and, in higher concentrations, can cause or aggravate heart and lung conditions, particularly among small children and sick or elderly persons. Less gasoline vapor emissions during refueling of ORVR-equipped vehicles should reduce potential health risks by minimizing the exposure levels of customers, employees, and others, and by contributing to an overall reduction in VOCs and ground-level ozone.

● **WHAT IS THE TIMETABLE FOR AUTOMAKERS TO INTRODUCE ORVR-EQUIPPED VEHICLES INTO THE MARKET ?**

As mandated by the 1990 Clean Air Act Amendments (1990 CAAA), the Environmental Protection Agency (EPA) has established regulations which require vehicle manufacturers to systematically increase the number of new vehicles equipped with ORVR systems over the next few years, beginning with 1998 model year vehicles. See Implementation Schedule below.

EPA Implementation Schedule for ORVR-Equipped Vehicles									
Type of Vehicle (GVWR = gross vehicle weight rating)	Vehicle Model Year / % Implementation								
	1998	1999	2000	2001	2002	2003	2004	2005	2006
Passenger Cars	40%	80%	100%	100%	100%	100%	100%	100%	100%
Light Trucks (<6,000 lb. GVWR)	0%	0%	0%	40%	80%	100%	100%	100%	100%
Light Trucks (6,001 - 8,500 lb. GVWR)	0%	0%	0%	0%	0%	0%	40%	80%	100%

● **SINCE ORVR SEEMS TO DO THE SAME THING AS STAGE II VAPOR RECOVERY, WHY IS IT BEING IMPLEMENTED ?**

Stage II vapor recovery is only required in designated ozone nonattainment areas, where ground-level ozone levels have exceeded federally-established threshold levels. (In Texas, this currently includes 16 counties in the Houston-Galveston, Dallas-Fort Worth, Beaumont-Port Arthur, and El Paso Areas.) ORVR systems will be beneficial and will reduce gasoline vapor emissions during vehicle refueling in ALL areas, attainment and nonattainment alike. The 1990 CAAA essentially requires **both** methods: (1) Stage II vapor recovery, which requires installation of permanent vapor recovery equipment at the dispensing facility by the facility owner; and (2) Onboard refueling vapor recovery (ORVR), which requires installation of permanent vapor recovery equipment on the vehicle by the vehicle manufacturer. Since Stage II was already in use in several areas of the country, the 1990 CAAA prescribed that Stage II would be required as an INTERIM vapor recovery method, but only in designated nonattainment areas where ozone pollution was already a problem. Since ORVR systems had not yet been fully developed, the 1990 CAAA allowed the temporary deferral of the implementation of ORVR systems. However, the 1990 CAAA directed EPA to develop standards and implementation schedules for ORVR systems (see above), and prescribed that ORVR systems would eventually be the PERMANENT vapor recovery method for vehicle refueling in ALL areas. Thus, ORVR will eventually replace Stage II vapor recovery as soon as ORVR-equipped vehicles are "in widespread use throughout the motor vehicle fleet", as determined by the EPA Administrator. However, until such determination is made (expected around the year 2010), owners and operators of regulated gasoline dispensing facilities in designated ozone nonattainment areas must continue to operate their Stage II vapor recovery systems in conformance with current statutory & regulatory requirements. For information on Stage II requirements in Texas, please contact TNRCC's *Petroleum Storage Tank Division, Technical Services Section at 512/239-2182*, or the *Waste Program in the TNRCC's Regional Office* in any of the four ozone nonattainment areas.

● **IF THESE DEVICES ARE PART OF THE VEHICLE, WHY SHOULD FACILITY OWNERS BE INTERESTED ?**

These devices will operate properly ONLY when the facility's dispensing equipment meets current flow rate restrictions. According to 1993 EPA regulations, vehicle manufacturers were required to redesign the fillpipes in new vehicles to minimize the

amount of "splash-back" or "spit-back" that occurs during refueling. However, this fillpipe redesign was based on a maximum refueling rate of 10 gallons per minute (gpm). Since many gasoline dispensing systems operated at dispensing rates in excess of 10 gpm, the 1993 EPA regulations also required that ALL dispensing nozzles used for motor vehicle refueling (nationwide) be limited to maximum in-use flow rates of 10 gpm or less. *For nozzles used to dispense gasoline or methanol, this flow-rate limitation has been in effect at facilities dispensing over 10,000 gallons/month since July 1, 1996, and will be in effect at all other regulated facilities beginning January 1, 1998.*

This EPA requirement is a performance standard. If a system is not capable of producing flow rates greater than 10 gpm through any nozzle due to pump, motor, dispenser, or piping/hose limitations, then no additional modifications would normally be required. However, for systems capable of producing flow rates greater than 10 gpm through one or more nozzles, a flow-restriction device would be needed on each affected nozzle. If you own a gasoline or methanol dispensing system, and are not sure whether your nozzle flow rates exceed 10 gpm, you should have your service representative conduct a flow rate test as soon as possible. If your nozzle flow rates exceed 10 gpm, you should take appropriate measures to reduce the flow rates. Relatively simple and inexpensive nozzle "flow limiters" are now marketed by most major service station equipment manufacturers, and should be available from your local equipment supplier.

New ORVR systems are not designed to operate effectively at fuel dispensing rates greater than 10 gpm. When ORVR-equipped vehicles are refueled at higher rates, frequent premature nozzle shut-offs, "splash-backs" and "spit-backs" can be expected, which could result in customer aggravation and potential safety hazards. Higher refueling rates can also reduce the useful life and effectiveness of the ORVR charcoal canister. In addition to these potential concerns, an owner of a regulated gasoline or methanol dispensing system that is not compliant with this nozzle flow-rate requirement is subject to EPA enforcement actions and penalties. If you need additional information regarding this 10 gpm dispensing rate limitation, please contact the *federal EPA's Office of Mobile Sources at (313) 668-4450.*

• **WILL THERE BE ANY DIFFERENCE BETWEEN REFUELING ORVR-EQUIPPED VEHICLES & CONVENTIONAL VEHICLES?**

In most cases, probably not, especially if the 10 gpm nozzle flow rate limitation is met. But as with anything new, occasional problems can be expected. In developing the new ORVR systems, vehicle manufacturers were expected to coordinate their ORVR & fillpipe designs with nozzle manufacturers to ensure reasonable compatibility between the two systems during vehicle refueling. Generally, this coordination was successful, and only a few compatibility concerns have been identified.

The California Air Resources Board (CARB) is recognized as the nation's primary testing and certification authority for vapor recovery equipment. CARB conducted a series of tests in January & February 1997 to investigate these incompatibility concerns, and to observe interactions between both conventional and Stage II-equipped dispensing systems with 1998 ORVR-equipped systems. CARB tested 297 different nozzle/vehicle combinations during over 1,200 dispensing events. The general findings were that Stage II nozzles tended to have more premature shutoffs during refueling of ORVR-equipped vehicles, and that conventional nozzles tended to have more "spit-backs", especially when the vehicle tanks were being "topped-off".

• **Systems with Conventional Nozzles (No Stage II) and with Stage II "Balance" Nozzles.** During normal refueling events, the CARB testing indicated only a few ORVR system compatibility problems with conventional gasoline dispensing nozzles (without Stage II) or with the older Stage II "balance-type" booted vapor recovery nozzles. However, several occurrences of "spit-back" were observed when "topping off" was performed. Therefore, customers and other users of these nozzles should be discouraged from "topping off" their vehicle fuel tanks so that "spit-back" incidents are minimized. (Decals warning against "topping off" are required with Stage II nozzles.) Also, if occasional premature shutoffs are observed, the most likely cause is excessive flow rate. Slowing the refueling rate may alleviate the problem. However, if this does not help, or if the problems are frequent, you should contact your equipment service provider to check out your system to ensure that all components are properly installed and properly operating in conformance with all applicable regulations.

• **Systems with Stage II "Vacuum-Assist" Nozzles.** For the tested Stage II "vacuum assist" nozzles, CARB identified only nineteen nozzle/vehicle combinations (of 297 tested) where either premature shutoffs or initial dispensing failures were observed during standard refueling, and only a few "spit-back" problems were observed. The nineteen refueling difficulties involved six vacuum-assist nozzles marketed by three nozzle manufacturers: (1) *Husky Models V-1 & V34-6250* by Husky Corporation; (2) *Healy Models 200/200X & 400* by Healy Systems, Inc.; and (3) *Saber-Flow* by Saber Equipment Corporation. If your facility is equipped with any of these Stage II vacuum assist-type nozzles, and if your dispensing system is experiencing premature shutoffs or initial dispensing failures (particularly when refueling new ORVR-equipped vehicles), you should contact your equipment service provider as soon as possible. Husky and Healy have developed modifications for their nozzles that should resolve the refueling problems, and these modifications either are available now or will be available in the near future. If your equipment service provider is not familiar with the necessary modifications for your system, you should contact the following nozzle manufacturer representatives, as appropriate, for specific guidance and information:

- *Husky Corp., % Arthur Fink, P.O. Box 67, 2325 Husky Way, Pacific, MO 63069. Phone: (314) 257-3073.*
 - *Healy Systems, Inc., % Roger Duhaime, 17 Hampshire Dr., Hudson, NH 03051. Phone: (603) 882-2472.*
 - *Saber Equipment Corp., % W. Dwain Simpson, 124 Catalpa Rd., Wilton, CT 06897. Phone: (203) 762-9444.*
- (Note: Saber is reportedly no longer in business, and TNRCC is not aware of any Saber nozzles installed in Texas.)*

If you would like additional information regarding ORVR systems or ORVR/Stage II interaction, you should contact the *federal EPA's Office of Mobile Sources, ORVR Implementation Program at (313) 668-4413 or (313) 741-7851.*

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ADOPTED CHANGES TO CHAPTER 334 OF TCEQ RULES, EFFECTIVE 10/30/08,
IMPLEMENTING HB 3554, HB 1956, AND THE SECONDARY CONTAINMENT
REQUIREMENTS OF THE FEDERAL ENERGY POLICY ACT OF 2005

Deletions in [bracketed] ~~strikeout~~. Additions underlined.

A.E. Rozsypal

12/08/08

SUBCHAPTER A: GENERAL PROVISIONS

§334.2. Definitions.

(59) **Motor fuel**--A petroleum substance which is typically used for the operation of internal combustion engines (including stationary engines and engines used in motor vehicles, aircraft, and marine vessels), and which is one of the following types of fuels: motor gasoline, aviation gasoline, Number 1 diesel fuel, Number 2 diesel fuel, biodiesel blended with Number 1 or Number 2 diesel, ~~[or] gasohol or other alcohol blended fuels~~.

(79) **Petroleum product**--A petroleum substance obtained from distilling and processing crude oil that is liquid at standard conditions of temperature and pressure, and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including, but not limited to, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, ~~[and] Number 1 and Number 2 diesel~~ and biodiesel blended with Number 1 or Number 2 diesel. The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.

§334.8. Certification for Underground Storage Tanks (USTs) and UST Systems.

(c) UST compliance self-certification requirements.

(1) Applicability. Except as provided in this paragraph, the requirements of this subsection are applicable to the owners and operators of USTs regulated under this chapter.

(A) The requirements of this subsection are not applicable to the following USTs:

(v) USTs temporarily out-of-service under §334.54 of this title (relating to Temporary Removal from Service) which are empty by definition.

(3) Conditions and limitations.

(D) The administrative requirements and technical standards that are the subject of the compliance self-certification shall include:

(iii) financial assurance, as described in Chapter 37, Subchapter I of this title (relating to Financial Assurance for Petroleum Underground Storage Tank Systems) (Copies of financial assurance documents are required to be submitted as part of self-certification, as specified in paragraph (4)(A)(viii) of this subsection); and

Fort Worth
Chapter Meeting
2/20/09

(4) UST registration and self-certification form.

(A) Requirements for completion of the form.

(viii) The owner or operator must submit annually, proof of current financial assurance, in accordance with Chapter 37, Section 37.870(b) of this title (relating to "Reporting, Registration, and Certification").

SUBCHAPTER B: UNDERGROUND STORAGE TANK FEES

§334.21. Fee Assessment.

(a) Annual facility fees shall cease to be assessed, effective September 1, 2007, and shall not be assessed until such time as reinstated by the commission at an amount determined appropriate by the commission, however prior owing tank fees are still due as further described. Except as provided in subsection (e) of this section, an annual facility fee of \$50 is assessed for each underground storage tank (UST) subject to the registration provisions of §334.7 of this title (relating to Registration for Underground Storage Tanks (USTs) and UST Systems). The fees shall be billed to and paid by the owner of the tank.

SUBCHAPTER C: TECHNICAL STANDARDS

§334.42. General Standards.

(h) any new tank or line or dispenser installed as part of a UST system on or after January 1, 2009, shall incorporate secondary containment meeting the applicable requirements of §334.45(d) of this title (relating to Technical Standards for New Underground Storage Tank Systems).

(i) Any sumps (including dispenser sumps) or manways installed prior to January 1, 2009, which are utilized as an integral part of a UST release detection system, and any overspill containers or catchment basins installed at any time, which are associated with a UST system must be inspected at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Any liquids or debris found in them during an inspection must be removed and properly disposed of within 72 hours of discovery.

§334.45. Technical Standards for New Underground Storage Tank Systems.

(b) Technical standards for new tanks.

(4) Other new tank components.

(A) Fittings. All metallic tank fittings (e.g., bung hole plugs) shall be protected from corrosion and shall be either:

(i) isolated from the backfill material and groundwater or any other water;

(d) Secondary containment for UST systems.

(1) Applicability.

(E) Requirements applicable to new tanks, lines and or dispensers (including related sumps or manways) installed on or after January 1, 2009:

- (i) Any new tank or line installed as part of a UST system must incorporate secondary containment in accordance with the applicable requirements of this subchapter, except that external liners will not be allowed as a secondary containment method.
- (ii) Up to 20% of the total original length of an existing single wall line can be replaced with new single wall line in accordance with the applicable requirements of this subchapter without triggering the secondary containment requirement for that line, unless the new line segment connects the existing line to a new dispenser. If more than 20% of the total original length of an existing single wall line is to be replaced, or the new line segment connects the existing line to a new dispenser, that line must be replaced in its entirety with one which incorporates secondary containment.
- (iii) The interstice of the secondarily contained tank and/or line must be monitored in accordance with the requirements of §334.50(d)(7) of this title.
- (iv) Any sumps or manways included in a new secondarily contained UST system which are utilized as an integral part of a UST release detection system must be compatible with the stored substance(s), must be installed and maintained in a manner that assures that their sides, bottoms, and any penetration points are liquid tight, and must be inspected for tightness annually and tested for tightness immediately after installation and at least once every 3 years thereafter.
- (v) Under dispenser containment in the form of a dispenser sump is required for any new dispenser. A new dispenser is defined as: (I) any dispenser which is installed where none previously existed; or (II) any existing dispenser which is removed and replaced with another dispenser and transitional piping components beneath the replacement dispenser (e.g. , flexible

connectors or piping risers) which serve to connect the dispenser to the underground piping are replaced. Each new dispenser must employ a dispenser sump which is compatible with the stored substance, is installed and maintained in a manner that assures that its sides, bottoms, and any penetration points are liquid tight, and must be inspected for tightness annually and tested for tightness, immediately after installation and at least once every 3 years thereafter.

- (vi) All sumps (including dispenser sumps) and/or manways must be must equipped with a liquid sensing probe/s which will alert the UST system owner or operator if more than two inches of liquid collects in any sump or manway.
- (vii) Liquids in sumps or manways must be removed and properly disposed of within 72 hours of alert or discovery.
- (viii) Inspections and testing: (I) inspections must be performed by a qualified person who is competent to conduct the inspection in accordance with recognized industry practices and in accordance with industry standards, if applicable. (II) Testing of tanks and/or lines shall be performed in accordance with the applicable requirements of this chapter. Testing of sumps or manways (including dispenser sumps) must be performed by a qualified person who is competent to conduct the inspection in accordance with recognized industry practices and in accordance with industry standards, if applicable.

§334.47. Technical Standards for Existing Underground Storage Tank Systems.

(b) Minimum upgrading requirements for all existing UST systems.

(1) Tank integrity assessment and UST system cathodic protection. No later than December 22, 1998, all tanks in an existing UST system shall be assessed for structural integrity, and all underground metallic components of an existing UST system shall be equipped with a cathodic protection system, as provided in the following subparagraphs.

(A) Tank integrity assessment. The tank shall be assessed for structural integrity and for the presence of corrosion holes by one or more of the following methods.

(ii) The tank may be tested by conducting at least two tank tightness tests meeting the requirements of §334.50(d)(1)(A) of this title. The first tightness test shall be conducted prior to installing the cathodic protection system, and the second test shall be conducted between three and six months after the cathodic protection system is placed into operation. For tanks constructed of non-corrodible material, or metal tanks clad or jacketed with

noncorrodible material which are electrically isolated from surrounding soil, backfill or groundwater or any other water, the tank may be tested by conducting at least one tightness test meeting the requirements of §334.50(d)(1)(A) of this title, within the 12 month period prior to December 22, 1998.

(C) Field-installed cathodic protection system. After confirmation or restoration of the structural integrity of the tank, all underground metal components of the UST system, which are not isolated from the surrounding soil, backfill, and groundwater or any other water, and which either do or could convey, contain, or store regulated substances, shall be equipped with a field-installed cathodic protection system meeting the requirements of §334.49(c)(2) of this title (relating to Corrosion Protection).

§334.49. Corrosion Protection.

(b) Allowable corrosion protection methods. All components of an UST system which are designed to convey, contain, or store regulated substances shall be protected from corrosion by one or more of the following methods.

(2) The component may be electrically isolated from the corrosive elements of the surrounding soil, backfill, groundwater or any other water, and from other metallic components by installing the component in an open area (e.g., manway, sump, vault, pit, etc.) where periodic visual inspection of all parts of the component for the presence of corrosion or released substances is practicable.

(3) The component may be electrically isolated from the corrosive elements of the surrounding soil, backfill, groundwater or any other water, and from other metallic components by completely enclosing the component in a secondary containment device (e.g., wall, jacket, or liner), provided that:

(B) the interstitial space between the protected component and the secondary containment device shall be free of any soil, backfill material, groundwater or any other water, or other substances, and the protected component shall be regularly inspected and tested for electrical isolation in accordance with the provisions in subsection (d)(1) of this section.

(c) Cathodic protection systems.

(1) Factory-installed cathodic protection systems.

(B) At a minimum, the factory-installed cathodic protection system shall include the following components:

(i) a suitable dielectric external coating or laminate, which shall thoroughly cover all exterior surfaces exposed to the soil, backfill, or groundwater or any other water, and which shall consist of materials which are compatible with the stored regulated substances;

(d) Requirements for other corrosion protection methods.

(1) Electrically isolated components.

(A) Except for jacketed tanks meeting the requirements of §334.45(b)(1)(F) of this title, any metal component of an UST system which is protected from corrosion by one of the electrical isolation methods described in subsection (b)(2) and (3) of this section, and which is not equipped with a cathodic protection system, shall be periodically inspected and tested to ensure that the metal component remains electrically isolated from the surrounding soil, backfill, groundwater or any other water, and from other metal components in accordance with one or more of the following procedures.

(C) If the tests required in subparagraph (A) of this paragraph indicate that the metal component is no longer electrically isolated from the surrounding soil, backfill, groundwater or any other water, or from other metal components, a qualified corrosion specialist shall review the test results and thoroughly inspect the area of the metal component to ascertain the extent of electrical isolation and corrosion protection for the component.

§334.50. Release Detection.

(d) Allowable methods of release detection. Tanks in a UST system may be monitored for releases using one or more of the methods included in paragraphs (2) - (10) of this subsection. Piping in a UST system may be monitored for releases using one or more of the methods included in paragraphs (5) - (10) of this subsection. Any method of release detection for tanks and/or piping in this section shall be allowable only when installed (or applied), operated, calibrated, and maintained in accordance with the particular requirements specified for such method in this subsection.

(7) Interstitial monitoring for double-wall UST systems. Equipment designed to test or monitor for the presence of regulated substance vapors or liquids in the interstitial space between the inner (primary) and outer (secondary) walls of a double-wall UST system may be used, subject to the following conditions and requirements.

(C) The sampling, testing, or monitoring method shall be capable of detecting a breach or failure in the primary wall and the entrance of groundwater or any other water into the interstitial space due to a breach in the secondary wall of the double-wall tank or piping system within one month (not to exceed 35 days) of such breach or failure (whether or not a stored regulated substance has been released into the environment).

§334.54. Temporary Removal from Service.

(e) Other requirements.

(5) Financial assurance requirements for tanks temporarily removed from service. Note that §37.885 of this title (relating to Release from the Requirements) addresses release from financial assurance requirements, and that Texas Water Code §26.352 (e-2)

and §37.867 of this title (relating to Duty to Empty Tanks after Termination of Financial Assurance) address the duty to empty tanks after termination of financial assurance.

SUBCHAPTER D: RELEASE REPORTING AND CORRECTIVE ACTION

§334.71. Applicability and Deadlines.

(b) If the release was reported to the agency on or before December 22, 1998, the person performing the corrective action shall meet the following deadlines:

(6) for sites that require either a corrective action plan or groundwater monitoring, have met all other deadlines under this subsection, and have submitted annual progress reports that demonstrate progress toward meeting closure requirements, a site closure request must be submitted to the executive director no later than September 1, 2011 ~~2007~~. The request must be complete, as judged by the executive director.

§334.84. Corrective Action by the Agency.

(a) The agency may undertake corrective action in response to a release or a threatened release if:

(4) the owner or operator is eligible for an extension for corrective action reimbursement under Texas Water Code, §26.3571; has been granted such extension by the executive director; has applied to the agency in writing on an agency application form not later than July 1, 2011 ~~2007~~, to have an eligible corrective action site placed in the Petroleum Storage Tank State Lead Program administered by the commission; and has agreed on the application form to allow access to that site to state personnel and state contractors. Once the executive director places such a site in the state lead program, the eligible owner or operator of that site is not liable to the commission for any corrective action costs incurred by the state lead program with regard to the site, unless the statutorily allowable maximum cost per site is exceeded; or

SUBCHAPTER F: ABOVEGROUND STORAGE TANKS

§334.128. Annual Facility Fees for Aboveground Storage Tanks (ASTs).

(a) Fee assessments.

(1) Except as provided in subsection (e) of this section, an annual facility fee of \$25 will be assessed by the agency for each aboveground storage tank (AST) subject to the registration provisions of §334.127 of this title (relating to Registration for Aboveground Storage Tanks (ASTs)).

(e) Exception. An annual facility fee shall cease to be assessed, effective September 1, 2007, and shall not be assessed until such time as reinstated by the commission at an amount determined appropriate by the commission, however, prior owing tank fees are still due as previously described. In addition, at such time as the annual facility fee is reinstated by the commission, it will not be assessed for an AST which is owned by a common carrier railroad, as provided in the TWC, §26.344(g).

SUBCHAPTER H: REIMBURSEMENT PROGRAM

§334.301. Applicability of this Subchapter.

(c) Expenses considered for payment--time frame in which corrective action performed. Subject to the other requirements of this subchapter, the expenses which may be considered for payment from the petroleum storage tank remediation fund are limited to expenses of corrective action which was performed for the owner or operator on or after September 1, 1987, and conducted in response to a confirmed release that was initially discovered and reported to the agency on or before December 22, 1998. Expenses for corrective action performed prior to September 1, 1987, are not subject to reimbursement or payment. No expenses for corrective action performed after September 1, 2005 will be reimbursed unless the owner or operator is eligible for an extension for corrective action reimbursement under Texas Water Code, §26.3571 and has been granted such an extension by the executive director. The Petroleum Storage Tank Remediation (PSTR) Account may be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2011 ~~2007~~. No reimbursements will be made for corrective action expenses sought in claims submitted to the agency after March 1, 2012 ~~2008~~. Under no circumstances will any reimbursements be made on or after September 1, 2012 ~~2008~~.

§334.302. General Conditions and Limitations Regarding Reimbursement; Assignment

(c) No payments shall be made by the agency under this subchapter for:

(5) any expenses related to corrective action performed after September 1, 2005, unless the owner or operator is eligible for an extension for corrective action reimbursement under Texas Water Code, §26.3571 and has been granted such an extension by the executive director. The Petroleum Storage Tank Remediation (PSTR) Account may be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2011 ~~2007~~;

(6) any expenses related to corrective action contained in a reimbursement claim filed with the agency after March 1, 2012 ~~2008~~;

(7) any expenses on or after September 1, 2012 ~~2008~~; or

§334.303. When to File Application.

(a) An application for reimbursement under this subchapter must be filed on or after January 17, 1990, but not after March 1, 2012 ~~2008~~.

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