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# Title 33

## ENVIRONMENTAL QUALITY

### Part XI. Underground Storage Tanks

#### Chapter 1. Program Applicability and Definitions

##### §101. Applicability

A. General. The requirements of these regulations apply to *underground storage tank (UST) systems* as defined in LAC 33:XI.103, except as otherwise provided in Subsections B and C of this Section.

1. Previously Deferred UST Systems. Airport hydrant fuel distribution systems, UST systems with field-constructed tanks, and UST systems that store fuel solely for use by emergency power generators shall meet the requirements of LAC 33:XI as follows:

a. airport hydrant fuel distribution systems and UST systems with field constructed tanks shall meet the requirements of LAC 33:XI.Chapter 8;

b. UST systems that store fuel solely for use by emergency power generators installed before August 9, 2009, shall meet the requirements of LAC 33:XI.701-705 on or before September 20, 2021;

c. UST systems that store fuel solely for use by emergency power generators installed on or after August 9, 2009, are subject to all requirements of LAC 33:XI, including the interstitial monitoring release detection requirements of LAC 33:XI.701-705.

B. Exclusions. The following UST systems are excluded from the requirements of these regulations. The owner or operator shall provide documentation upon request for any exclusion claimed.

1. Any UST system holding hazardous wastes listed or identified in the Louisiana Department of Environmental Quality's Hazardous Waste Regulations or a mixture of such hazardous waste and other regulated substances is excluded from the requirements of these regulations.

2. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act is excluded from the requirements of these regulations.

3. Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks is excluded from the requirements of these regulations.

4. Any UST system whose capacity is 110 gallons or less is excluded from the requirements of these regulations.

5. Any UST system that contains or has never contained more than a *de minimis* concentration, as

determined by the department, of regulated substances is excluded from the requirements of these regulations.

6. Any emergency spill or overflow containment UST system that is expeditiously emptied after use is excluded from the requirements of these regulations.

##### C. Partial Exclusions

1. The following categories of partially-excluded tanks are exempted from all of the requirements of LAC 33:XI except for LAC 33:XI.305 and LAC 33:XI.715:

a. wastewater treatment tank systems not covered under Paragraph B.2 of this Section;

b. any UST systems containing radioactive materials that are regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

c. any UST system that is part of an emergency generator system at nuclear power generation facilities licensed by the Nuclear Regulatory Commission and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including but not limited to 10 CFR 50; and

d. aboveground tanks associated with:

i. airport hydrant fuel distribution systems regulated under LAC 33:XI.Chapter 8; and

ii. UST systems with field-constructed tanks regulated under LAC 33:XI.Chapter 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1467 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:1492 (August 2009), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1591 (September 2018).

##### §103. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless specifically defined otherwise in LAC 33:XI.1105 or 1303.

*Aboveground Release*—any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the aboveground portion of a UST system and aboveground releases associated with overfills and transfer

operations as the regulated substance moves to or from a UST system.

*Act*—the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

*Administrative Authority*—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

*Airport Hydrant Distribution System* (also called *airport hydrant system*)—a UST system which fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The airport hydrant system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

*Ancillary Equipment*—any devices used to distribute, meter, or control the flow of regulated substances to and from a UST, including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps.

*Belowground Release*—any release to the subsurface of the land or to groundwater, including, but not limited to, releases from the belowground portions of a UST system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from a UST system.

*Beneath the Surface of the Ground*—beneath the ground surface or otherwise covered with earthen materials.

*CERCLA*—the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

*Cathodic Protection*—a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

*Cathodic Protection Tester*—a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such a person shall have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

*Change-in-Service*—the continued use of a UST system to store a nonregulated substance.

*Compatible*—the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the UST system under conditions likely to be encountered by the UST system.

*Connected Piping*—all underground piping, including valves, elbows, joints, flanges, and flexible connectors, attached to a UST system through which regulated substances flow. For the purpose of determining how much

piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

*Consumptive Use*—with respect to heating oil, consumption that occurs on the premises.

*Containment Sump*—a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps, and related components in the containment area. Containment sumps may be single walled or secondarily contained and located at the top of the tank (tank top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).

*Corrosion Expert*—a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired through a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person shall be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has provided evidence to the satisfaction of the administrative authority documenting certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

*Department*—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

*Dielectric Material*—a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., tank from piping).

*Dispenser*—equipment located aboveground that dispenses regulated substances from the UST system.

*Dispenser System*—the dispenser and equipment necessary to connect the dispenser to the UST system.

*Electrical Equipment*—underground equipment that contains dielectric fluid necessary for the operation of equipment such as transformers and buried electrical cable.

*Empty UST System*—a UST system from which all materials have been removed using commonly employed practices so that no more than either 2.5 centimeters (1 inch) of residue or 0.3 percent by weight of the total capacity of the UST system, whichever is less, remains in the system.

*Excavation Zone*—the volume containing the UST system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is installed.

*Existing UST System*—an underground storage tank system used to contain an accumulation of regulated substances on or before December 22, 1988, or for which

installation has commenced on or before December 22, 1988. Installation is considered to have commenced if:

a. the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the UST system; and

b. either a continuous on-site physical construction or installation program has begun or the owner or operator has entered into contractual obligations, that cannot be cancelled or modified without substantial loss, or physical construction at the site or installation of the UST system to be completed within a reasonable time.

*Farm Tank*—a tank located on a tract of land devoted to the production of crops or raising of animals, including fish, and the associated residences and improvements. A farm tank must be located on the farm property. Farm includes fish hatcheries, rangelands, and nurseries with growing operations.

*Field-Constructed Tank*—a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank that is primarily fabricated in the field is considered field-constructed. Tank-within-a-tank technology tanks are not considered field-constructed tanks.

*Flow-Through Process Tank*—a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

*Free Product*—a regulated substance present as a nonaqueous phase liquid (e.g., a liquid not dissolved in water).

*Gathering Lines*—any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

*Geologist*—a person who is a graduate of an accredited institution of higher education who has successfully completed a minimum of 30 semester hours or 45 quarter hours of course work in the science of geology and has in his/her possession a minimum of a baccalaureate degree.

*Hazardous Substance UST System*—an underground storage tank system that contains a hazardous substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under the department's Hazardous Waste Regulations) or any mixture of such substances and petroleum, and which is not a petroleum UST system.

*Heating Oil*—petroleum that is Number 1, Number 2, Number 4-light, Number 4-heavy, Number 5-light, Number 5-heavy, and Number 6 technical grades of fuel oil; other

residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

*Hydraulic Lift Tank*—a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

*Install or Installation*—the process of placing a UST system in the ground and preparing it to be put into service. Adding new piping where none existed before at an existing site is considered a renovation and is regulated as an installation.

*Liquid Trap*—sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants) to collect oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

*Maintenance*—the normal operational upkeep undertaken to prevent a UST system from releasing product.

*Motor Fuels*—all grades of gasoline including but not limited to gasohol, number 1 diesel, number 2 diesel, kerosene, and all aviation fuels. This term shall include new and used motor oil that is used for lubricating engines of motor vehicles. Motor fuels may include, as determined by the secretary, any product, petroleum or petroleum blend, biofuel or any new fuel that may emerge for the propulsion of motor vehicles. However, liquid petroleum (LP) gas, compressed natural gas (CNG), and liquefied natural gas (LNG) shall not be included in this definition of motor fuels.

*New UST System*—an underground storage tank system that will be used to contain an accumulation of regulated substances and for which installation commenced after December 22, 1988 (see also *Existing UST System*).

*Noncommercial Purposes*—with respect to motor fuel, refers to purposes other than for resale.

*On Staff*—performing services while employed by a response action contractor, for an average of 20 or more hours per week. On staff does not refer to an independent contractor, but to an employee of the response action contractor.

*On the Premises Where Stored*—with respect to heating oil, refers to UST systems located on the same property where the stored heating oil is used.

*Operational Life*—the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under LAC 33:XI.Chapter 9.

*Operator*—any person in control of, or having responsibility for, the daily operation of the UST system regardless if the UST system is active or temporarily closed.

*Overfill Release*—a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance into the environment.

*Owner*—

a. the owner of a UST is, for purposes of these regulations:

- i. the current owner of the land under which the tank is or was buried;
- ii. any legal owner of the tank;
- iii. any known operator of the tank;
- iv. any lessee;
- v. any lessor;

b. if one person defined as an owner complies, it shall be deemed compliance by all persons defined as owners.

*Permanent Closure*—the process of removing and disposing of a UST system no longer in service, including the process of abandoning such a system in place through the use of prescribed techniques for the purging of vapors and the filling of the vessel with a solid, inert material, the process of properly labeling a tank, and the process of collecting subsurface samples.

*Person*—an individual, trust, firm, joint stock company, federal agency, corporation, state, municipality, commission, political subdivision of a state, or any interstate body. *Person* also includes a consortium, a joint venture, a commercial entity, and the United States government.

*Petroleum UST System*—an underground storage tank system that contains petroleum or a mixture of petroleum with *de minimis* quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

*Pipe or Piping*—a hollow cylinder or tubular conduit that is constructed of non-earthen materials and that routinely contains and conveys regulated substances from a UST to a dispenser or other end-use equipment. Such piping includes any elbows, couplings, unions, valves, or other in-line fixtures that contain and convey regulated substances from the UST to the dispenser. This definition does not include vent, vapor recovery, or fill lines.

*Pipeline Facilities (including gathering lines)*—new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

*Registered Tank*—a UST system for which an owner/operator has filed the required UST registration forms (UST-REG-01 and 02) with the department. After September 20, 2018, a UST system for which the owner/operator has filed the required registration form (UST-REG) with the department.

*Registration Certificate*—an annual certificate provided to the UST system owner by the department after all current

annual fees, all unpaid annual fees, and any late payment fees for the UST system are paid. The current registration certificate also serves as documentation of financial assurance for UST owners that elect the Louisiana motor fuels underground storage tank trust fund as their mechanism for meeting the UST financial assurance requirements of LAC 33:XI.1107.

*Regulated Substance*—

a. any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under the department's hazardous waste regulations);

b. petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). The term *regulated substance* includes, but is not limited to, petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils; and

c. any motor fuels as determined by the secretary.

*Release*—any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a UST system. Releases into the air will be governed by LAC 33:Part III and LAC 33.I.Chapter 39.

*Release Detection*—determining whether a release of a regulated substance has occurred from a UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

*Renovation*—to make nonrepair changes to a UST system, such as replacing existing piping with new piping, installing new piping and additional dispensers at an existing site, and installing new containment sumps at an existing site. *Renovations* are regulated as installations.

*Repair*—to restore to proper operating conditions a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment, or other UST system component that has caused or threatens to cause a release of product from the UST system or has failed to function properly.

*Replace or Replacement*—to remove an existing UST and install a new UST in substantially the same location as the removed tank, or to remove and replace 25 percent or more of underground piping associated with a single UST.

*Residential Tank*—a tank located on property used primarily for dwelling purposes.

*Response Action*—any technical services activity or specialized services activity, including but not limited to, assessment, planning, design, engineering, construction, operation of a recovery system, or ancillary services, that is carried out in response to any discharge or release or



threatened release of motor fuels into the groundwater, surface waters, or subsurface soils.

*Response Action Contractor*—a person who has been approved by the department and is carrying out any response action, excluding a person retained or hired by such person to provide specialized services relating to a response action. When emergency conditions exist as a result of a release from a motor fuels underground storage tank, this term shall include any person performing department-approved emergency response actions during the first 72 hours following the release.

*SARA*—the Superfund Amendments and Reauthorization Act of 1986.

*Secondary Containment*—a containment system that utilizes an outer or secondary container or impervious liner designed to prevent releases of regulated substances from the primary container from reaching the surrounding environment for a time sufficient to allow for detection and control of the released product. Such systems include, but are not limited to, double-wall tanks and piping, jacketed tanks and piping that have an interstitial space that allows for interstitial monitoring, containment sumps when used for interstitial monitoring of piping, and any other such system approved by the department prior to installation.

*Septic Tank*—a covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such a receptacle is distributed for disposal through the soil, and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

*Specialized Services*—response action activities associated with the preparation of a reimbursement application, laboratory analyses, or any construction activity, construction of trenches, excavations, installing monitoring wells, conducting borings, heavy equipment work, surveying, plumbing, and electrical work that are carried out by a subcontractor hired or retained by a response action contractor in response to a discharge or release or threatened release of motor fuels into the groundwater or subsurface soils.

*Storm-Water or Wastewater Collection System*—piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water runoff resulting from precipitation or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm-water and wastewater does not include treatment, except where incidental to conveyance.

*Surface Impoundment*—a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with synthetic materials) that is not an injection well.

*Tank*—a stationary device designed to contain an accumulation of regulated substances and constructed of

nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

*Technical Services*—activities performed by a response action contractor, including but not limited to, oversight of all assessment field activities; all reporting, planning, and development of corrective action plans and designing of remedial activities; performance of groundwater monitoring and discharge monitoring; performance of operation and maintenance of remedial systems; and oversight of specialized services performed by a subcontractor.

*Temporary Closure*—the temporary removal from service of a UST (i.e., ceased dispensing product from a UST system). A compartment tank is not considered to be in temporary closure as long as any compartment of the tank is currently active.

*Under-Dispenser Containment*—a containment system beneath a dispenser designed to prevent releases of regulated substances from the dispenser or contained piping from reaching the surrounding environment for a time sufficient to allow for detection and control of the released product. Such containment shall be liquid-tight on its sides, bottom, and at any penetrations, and shall allow for visual inspection and access to the components in the containment system or be regularly monitored.

*Underground Area*—an underground room, such as a basement, cellar, shaft, or vault, providing enough space for physical inspection of the exterior of a tank situated on or above the surface of the floor.

*Underground Release*—any belowground release.

*Underground Storage Tank or UST*—any one or combination of tanks (including underground pipes connected thereto) used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Underground storage tank or UST does not refer to any of the tanks listed in Subparagraphs a-j of this definition, nor does it refer to any pipes connected to any of these tanks:

- a. farm or residential tanks that have a capacity of 1,100 gallons or less and that are used for storing motor fuel for noncommercial purposes;
- b. tanks used for storing heating oil except heating oils blended with hazardous waste for consumptive use on the premises where stored;
- c. septic tanks;
- d. pipeline facilities (including gathering lines) which are regulated under 49 U.S.C. chapter 601;
- e. intrastate pipeline facilities regulated under state laws as provided in 49 U.S.C chapter 601, and which are determined by the secretary of transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

- f. surface impoundments, pits, ponds, or lagoons;
- g. storm-water or wastewater collection systems;
- h. flow-through process tanks;
- i. liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; or
- j. storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

*Underground Storage Tank System or UST System or Tank System*—an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

*Upgrade*—the addition or retrofit of some systems, such as cathodic protection, lining, or spill and overfill controls, to improve the ability of an underground storage tank system to prevent the release of product.

*Wastewater Treatment Tank*—a tank designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 27:520 (April 2001), amended by the Office of Environmental Assessment, LR 31:1065 (May 2005), LR 31:1577 (July 2005), repromulgated LR 31:2002 (August 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:2115 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1591 (September 2018).

## Chapter 3. Registration Requirements, Standards, and Fee Schedule

### §301. Registration Requirements

#### A. Existing UST Systems

1. All owners of *existing UST systems* (as defined in LAC 33:XI.103) were required to register such systems by May 8, 1986, (USTs installed after that date were required to be registered within 30 days of bringing such tanks into use) on a form approved by the department. Tanks filled with a solid, inert material before January 1, 1974, are not required to be registered with the department.

2. Owners of underground storage tanks taken out of service on or after January 1, 1974, unless the owner or operator knows the tank was subsequently removed from the ground, were required to notify the department of the existence of such tanks on or before May 8, 1986, on a form approved by the department. Owners and operators who have not complied with this requirement shall use the

department's approved registration form, specifying at a minimum, to the extent known by the owner or operator, the date the tank was taken out of operation, the location of the tank, the capacity, type of construction, age of the UST system, the type of regulated substance stored in the tank, and the quantity of regulated substances left stored in the tank on the date the tank was taken out of operation, as well as other pertinent information required on the form.

3. All existing UST systems previously registered with the department shall be considered to be in compliance with this requirement if the information on file with the department is current and accurate. Maintaining current and accurate information with the department includes notifying the Office of Environmental Assessment of changes in ownership, or of changes in UST system descriptions resulting from upgrading, by filing an amended registration form within 30 days of the change in ownership or in description of the UST system. After September 20, 2018, existing UST systems shall comply with the registration requirements outlined in LAC 33:XI.301.C.

B. New UST Systems. Beginning July 20, 1990, through September 20, 2018, all owners of new *UST systems* (as defined in LAC 33:XI.103) shall, at least 30 days before bringing such tanks into use, register them on an underground storage tank registration form (UST-REG-01). Registration forms shall be filed with the Office of Management and Finance. The following registration requirements apply to new UST systems.

1. All owners of new UST systems shall certify, in the space provided on the department's approved registration form, compliance with the following requirements:

a. tank and piping installation in accordance with LAC 33:XI.303.D.6, including secondary containment of new and replacement tanks and/or piping, under-dispenser containment, and submersible pump containment;

b. cathodic protection of steel tanks and piping in accordance with LAC 33:XI.303.D.1-2;

c. financial responsibility requirements under LAC 33:XI.Chapter 11; and

d. release detection requirements under LAC 33:XI.703.A-C.

2. All owners of new UST systems shall ensure that the installer certifies on the registration form that the methods used to install the tanks and piping comply with the requirements of LAC 33:XI.303.D.6.a. Beginning January 20, 1992, registration forms shall include the name and department-issued certificate number of the individual exercising supervisory control over *installation-critical junctures* (as defined in LAC 33:XI.1303) of a UST system.

C. All UST system owners or operators shall comply with the following requirements.

1. All owners of *UST systems* (as defined in LAC 33:XI.103) installed after September 20, 2018, shall register them using the underground storage tank registration and technical requirements form (UST-REG) prior to placing a

regulated substance into the UST. To demonstrate compliance with the requirements outlined in LAC 33:XI.301.B.1, all owners shall certify in the space provided on the UST-REG form and submit the form to the Office of Management and Finance prior to allowing a regulated substance to be placed into the UST system. The form shall be complete and accurate and filled out in its entirety. In addition to the requirements outlined in LAC 33:XI.301.B.1, the following requirements shall also be met.

a. The UST-REG form shall include the name and department-issued certificate number of the individual(s) exercising supervisory control over all *installation-critical junctures* (as defined in LAC 33:XI.1303) of the UST system.

b. If multiple certified installers exercised supervisory control of installation-critical junctures of an installation, a written statement signed by each installer explaining which certified worker was responsible for which installation-critical juncture shall accompany the UST-REG form.

c. A to-scale site diagram showing all tanks, product piping, vent piping, and dispenser locations of all UST systems installed or renovated after September 20, 2018, shall be submitted to the department with the UST-REG form.

2. All UST owners and operators shall submit a current and accurate updated UST-REG form to the department within 30 days of any changes of any of the items reflected on their most current registration forms. Owners who own multiple places of operation shall submit a separate form for each place of operation. Updated forms submitted to the department shall be filled out in their entirety with the exception of the certified worker section if the update does not involve a certified worker requirement.

3. All UST owners and operators shall submit an updated UST-REG form to the department within 60 days of the first compliance evaluation inspection after September 20, 2018, or before September 20, 2021, whichever comes first. The updated form shall be complete and accurate, and filled out in its entirety with the exception of the certified worker section if the update does not involve a certified worker requirement.

4. Any person who sells a UST system shall so notify the Office of Environmental Assessment in writing within 30 days after the date of the transaction. A person selling a UST shall also notify the person acquiring a regulated UST system of the owner's registration obligations under this Section.

5. Any person who acquires a UST system shall submit to the Office of Management and Finance an amended underground storage tank registration and technical requirements form (UST-REG) within 30 days after the date of acquisition.

6. Any person who acquires a UST system shall submit to the Office of Management and Finance all current and unpaid annual fees along with any late payment fees for

the UST system prior to receiving a current registration certificate from the department.

7. A current copy of the registration form shall be kept on-site or at the nearest staffed facility.

8. No owner or operator shall allow a regulated substance to be placed into a UST system that has not been registered with the department.

9. No person shall place a regulated substance into a UST system that has not been registered with the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of Environmental Assessment, LR 31:1066 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), repromulgated LR 32:393 (March 2006), amended LR 32:1852 (October 2006), LR 33:2171 (October 2007), LR 34:2116 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2760 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2143 (November 2017), LR 44:1593 (September 2018), amended by the Office of the Secretary, Legal Affairs Division, LR 51:785 (June 2025).

### **§303. Standards for UST Systems**

A. LAC 33:XI.599.Appendix A lists codes of practice developed by nationally-recognized associations or independent testing laboratories that shall be used to comply with these regulations.

B. New UST Systems Near Active or Abandoned Water Wells. In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all UST systems installed between December 22, 1988, and December 20, 2008, within 50 feet of an active or abandoned water well shall meet the requirements of LAC 33:XI.703.C.

C. Standards for UST Systems Installed after December 20, 2008. In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all UST systems installed after December 20, 2008, shall have secondary containment in accordance with Subsection D of this Section and use interstitial monitoring for tanks and piping in accordance with LAC 33:XI.701.A.6 and 701.B.4.

1. If a single-walled UST is placed in the ground at the location where it is to be put into service prior to December 20, 2008, the UST owner is allowed 90 days (until March 20, 2009) to complete the UST system installation without having to comply with the secondary containment requirements in Subsection D of this Section.

## ENVIRONMENTAL QUALITY

2. The department may grant an extension to these dates only in the event that the UST or UST system installation is delayed due to adverse weather conditions or other unforeseen, unavoidable circumstances. A written contract alone does not qualify as an unforeseen, unavoidable circumstance. In order to obtain an extension, the UST owner shall submit a written request to the Office of Environmental Assessment, describing the circumstances that have caused the installation delay.

D. All new UST systems shall comply with the following standards.

1. Tanks. Each tank shall be properly designed and constructed, and any portion underground that routinely contains product shall be protected from corrosion in accordance with Subsection A of this Section and as described below:

a. the tank is constructed of fiberglass-reinforced plastic; or

b. the tank is constructed of metal and cathodically protected in the following manner:

i. the tank is coated with a suitable dielectric material;

ii. field-installed cathodic protection systems are designed by a corrosion expert;

iii. impressed current systems are designed to allow determination of current operating status as required in LAC 33:XI.503.A.3; and

iv. cathodic protection systems are operated and maintained in accordance with LAC 33:XI.503 or according to guidelines established by the department; or

c. the tank is constructed of steel and clad or jacketed with a noncorrodible material; or

d. the tank is constructed of metal without additional corrosion protection measures, provided that:

i. the tank is installed at a site that a corrosion expert determines will not be corrosive enough to cause the tank to have a release due to corrosion during its operating life; and

ii. owners and operators maintain records that demonstrate compliance with the requirements of Clause D.1.d.i of this Section for the remaining life of the tank; or

e. the tank construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the constructions listed in Subparagraphs D.1.a-d and f of this Section; and

f. for any UST system that is installed or replaced after December 20, 2008, along with meeting the requirements of Subparagraphs D.1.a-e of this Section, the tank employs *secondary containment*, as defined in LAC 33:XI.103, as follows:

i. it is an accepted UST design as described in Subparagraphs D.1.a-e of this Section, is of double-walled or jacketed construction in accordance with Subsection A of this Section, is capable of containing a release from the inner wall of the tank, and is designed with release detection in accordance with LAC 33:XI.701.A.6.a; or

ii. it is some other secondarily-contained tank system approved by the department in writing prior to installation.

2. Piping. Piping on new UST systems that routinely contains regulated substances and is in contact with the soil, backfill, or water shall be properly designed, constructed, and protected from corrosion in accordance with Subsection A of this Section and as described below:

a. the piping is constructed of a noncorrodible material; or

b. the piping is constructed of metal and cathodically protected in the following manner:

i. the piping is coated with a suitable dielectric material;

ii. field-installed cathodic protection systems are designed by a corrosion expert;

iii. impressed current systems are designed to allow determination of current operating status as required in LAC 33:XI.503.A.3; and

iv. cathodic protection systems are operated and maintained in accordance with LAC 33:XI.503 or guidelines established by the department; or

c. the piping is constructed of metal without additional corrosion protection measures, provided that:

i. the piping is installed at a site that a corrosion expert determines is not corrosive enough to cause the piping to have a release due to corrosion during its operating life; and

ii. owners and operators maintain records that demonstrate compliance with the requirements of Clause D.2.c.i of this Section for the remaining life of the piping; or

d. the piping construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in Subparagraphs D.2.a-c, e, and f of this Section; or

e. the piping is of double-walled non-metallic flexible or semi-rigid construction;

f. if piping connected to a UST is installed or replaced after December 20, 2008, along with meeting the requirements of Subparagraphs D.2.a-e of this Section, the piping employs *secondary containment*, as defined in LAC 33:XI.103, as follows:

i. any of the accepted piping designs listed in Subparagraphs D.2.a-e of this Section shall be fabricated

with double-walled or jacketed construction in accordance with Subsection A of this Section, shall be capable of containing a release from the inner wall of the piping, and shall be designed with release detection in accordance with LAC 33:XI.701.B.4; or

ii. the piping system shall have some other form of secondary containment system approved by the department in writing prior to installation; and

g. if 25 percent or more of the piping to any one UST is replaced after December 20, 2008, the entire piping run shall comply with Clause D.2.f.i or ii of this Section;

h. if a new dispenser is installed at an existing UST facility and new piping is added to the UST system to connect the new dispenser to the existing system after December 20, 2008, then the new piping shall comply with Clause D.2.f.i or ii of this Section;

i. suction piping that meets the requirements of LAC 33:XI.703.B.2.a.ii.(a)–(e) and suction piping that manifolds two or more tanks together are not required to meet the secondary containment requirements of LAC 33:XI.303.D.2.f; and

j. reuse of existing single-walled piping is prohibited when replacement underground storage tanks are installed.

### 3. Spill and Overfill Prevention Equipment

a. Except as provided in Subparagraphs b and c of this Paragraph, to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators shall use:

i. spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill bucket). Spill buckets shall have liquid-tight sides and bottoms and be maintained free of liquid and debris; and

ii. overfill prevention equipment that will:

(a). automatically shut off flow into the tank when the tank is no more than 95 percent full;

(b). alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or

(c). restrict flow 30 minutes prior to overfilling, or alert the transfer operator with a high-level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings on top of the tank are exposed to product because of overfilling.

b. Owners and operators are not required to use the spill and overfill prevention equipment specified in Subparagraph D.3.a of this Section if:

i. alternative equipment is used that the department determines is no less protective of human health and the environment than the equipment specified in Clause D.3.a.i or ii of this Section; or

ii. the UST system is filled by transfers of no more than 25 gallons at one time.

c. Flow restrictors used in vent lines shall not be used to comply with LAC 33:XI.303.D.3.a.ii when overfill prevention is installed or replaced after September 20, 2018. If removal is required, the entire ball float assembly shall be removed from the tank.

d. Spill and overfill prevention equipment shall be periodically tested or inspected in accordance with LAC 33:XI.511.

4. Under-Dispenser Secondary Containment. After December 20, 2008, under-dispenser containment:

a. is required under the following conditions:

i. in any installation of a new dispenser at a new facility;

ii. in any installation of a new or replacement dispenser at an existing facility where new piping is added to the UST system to connect the new dispenser to the existing system;

iii. in any installation of a replacement dispenser at an existing facility where the piping that connects the dispenser to the existing piping is replaced, including replacing the metal flexible connector, riser, or other transitional components that are beneath the dispenser and the impact shear valve and that connect the dispenser to the piping. Replacing an existing dispenser where no piping and none of the piping that connects the dispenser to the existing piping are replaced does not require the addition of an under-dispenser containment sump; and

b. shall be liquid-tight on its sides, bottom, and at any penetrations, and be maintained free of storm water and debris. Regulated substances spilled into any under-dispenser containment sump shall be immediately removed upon discovery to the maximum extent practicable.

5. Submersible Turbine Pump (STP) Secondary Containment. After December 20, 2008, secondary containment for submersible pumps:

a. is required under the following conditions:

i. in any installation of a new STP at a new facility;

ii. in any installation of an STP (the entire STP, STP housing, and riser pipe) at an existing facility where new piping is added to the UST system to connect the new STP to the existing system;

iii. in any installation of a replacement STP (the entire STP, STP housing, and riser pipe) at an existing facility where the piping that connects the STP to the existing piping is replaced. Replacing the metal flexible connector with a single-walled flexible connector requires the addition of a containment sump. Replacing the metal flexible connector with a double-walled flexible connector does not require the addition of a containment sump as long as the newly-installed STP is secondarily contained, and

replacing an existing STP where no piping is replaced does not require the addition of STP secondary containment; and

b. can consist of either a built-in secondary containment system or a STP containment sump. STP containment installed after December 20, 2008, shall be liquid-tight on its sides, bottom, and at any penetrations, and be maintained free of storm water and debris. Regulated substances spilled into any STP containment sump shall be immediately removed upon discovery to the maximum extent practicable.

#### 6. Installation Procedures

a. Installation. The UST system, spill and overfill prevention devices, product pumping equipment, and emergency shutoff valves (e.g., shear or impact valves), shall be installed in accordance with Subsection A of this Section and in accordance with the manufacturer's instructions.

b. Certification of Installation and Verification of Installer Certification

i. From July 20, 1990, through January 20, 1992, UST owners shall have certified installations as follows. All UST owners shall have ensured that one or more of the following methods of certification, testing, or inspection was used to demonstrate compliance with Subparagraph D.6.a of this Section by providing a certification of compliance on the UST registration form (UST-REG-02) in accordance with LAC 33:XI.301:

(a). the installer was certified by the tank and piping manufacturers; or

(b). the installation was inspected and certified by a professional engineer with education and experience in UST system installation; or

(c). the installation was inspected and approved by the department; or

(d). all work listed in the manufacturer's installation checklists was completed; or

(e). the UST owner complied with another method for ensuring compliance with Subparagraph a of this Paragraph that was determined by the department to be no less protective of human health and the environment.

ii. Beginning January 20, 1992 through September 20, 2018, all UST owners shall have ensured that the individual exercising supervisory control over *installation critical-junctures* (as defined in LAC 33:XI.1303) of a UST system is certified in accordance with LAC 33:XI.Chapter 13. To demonstrate compliance with Subparagraph D.6.a of this Section, all UST owners shall have provided a certification of compliance on the UST registration of technical requirements form (UST-REG-02) within 60 days of the introduction of any regulated substance. Forms shall have been filed with the department.

iii. After September 20, 2018, all UST owners shall ensure that the individual exercising supervisory control over *installation-critical junctures* (as defined in LAC 33:XI.1303) of a UST system is certified in accordance

with LAC 33:XI.Chapter 13. To demonstrate compliance with Subparagraph a of this Paragraph, all UST owners shall provide a certification of compliance on the UST-REG form prior to introduction of any regulated substance into the UST system. Forms shall be submitted to the Office of Management and Finance.

c. Notification of Installation. The UST owner shall notify the Office of Environmental Assessment in writing at least 30 days before beginning installation of a UST system by:

i. submitting a completed installation, renovation, repair, and upgrade notification form (UST-ENF-04);

ii. including in the notification a statement of the number of active or abandoned water wells within 50 feet of the UST system and the type of system to be installed; and

iii. including in the notification the methods to be used to comply with LAC 33:XI.Chapters 3 and 7.

d. The UST owner and/or certified worker responsible for the installation-critical junctures shall notify the appropriate regional office of the Office of Environmental Assessment by phone, mail, email, fax, or online (when available) seven days prior to commencing the installation and before commencing any *installation-critical juncture* (as defined in LAC 33:XI.1303).

E. Upgrading Existing UST Systems to New System Standards

1. All existing UST systems shall comply with one of the following sets of requirements:

a. new UST system performance standards under Subsection D of this Section; or

b. the upgrading requirements in Paragraphs 3-7 of this Subsection.

2. All existing UST systems not meeting the requirements of Paragraph E.1 of this Section shall comply with closure requirements under LAC 33:XI.Chapter 9, including applicable requirements for corrective action under LAC 33:XI.715. This does not apply to previously deferred UST systems described in LAC 33:XI.Chapter 8 and where an upgrade is determined to be appropriate by the department.

3. Tank Upgrading Requirements. Metal tanks shall be upgraded in accordance with Subsection A of this Section and meet one of the following requirements.

a. Internal Lining. A tank upgraded by internal lining shall meet the following:

i. the lining was installed in accordance with the requirements of LAC 33:XI.507; and

ii. within 10 years after lining, and every 5 years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications. If the internal lining is no longer performing in accordance with the

original design specifications and cannot be repaired in accordance with a code of practice developed by a nationally recognized organization or independent testing laboratory, then the lined tank shall be permanently closed in accordance with LAC 33:XI.Chapter 9.

iii. After September 20, 2018, an internally lined tank cannot be upgraded with an impressed current system.

b. Cathodic Protection. Tanks upgraded by cathodic protection shall meet the requirements of Clauses D.1.b.ii, iii, and iv of this Section, and the integrity of the tank shall have been ensured using one of the following methods.

i. The tank was internally inspected and assessed to ensure that the tank was structurally sound and free of corrosion holes before the cathodic protection system is installed.

ii. The tank had been installed for less than 10 years and was monitored monthly for releases in accordance with LAC 33:XI.701.A.4-8.

iii. The tank had been installed for less than 10 years and was assessed for corrosion holes by conducting two tightness tests that meet the requirements of LAC 33:XI.701.A.3. The first tightness test shall have been conducted before the cathodic protection system was installed. The second tightness test shall have been conducted between three and six months after the first operation of the cathodic protection system.

iv. The tank was assessed for corrosion holes by a method that was determined by the department to prevent releases in a manner that was no less protective of human health and the environment than the methods specified in Clauses E.3.b.i-iii of this Section.

v. All procedures used to upgrade existing UST systems by cathodic protection shall have been conducted in accordance with applicable requirements of the Louisiana Department of Transportation and Development, or its successor agency.

vi. After September 20, 2018, a tank tightness test, performed in accordance with LAC 33:XI.701.A.3, shall be conducted at least once every 12 months for the life of the tank on all tanks that were over 10 years old when the cathodic protection system was installed, unless the current owner has documentation to prove that a tank integrity assessment was conducted prior to the installation of the cathodic protection system (regardless of who owned the tank at the time), or unless an internal lining was installed at the same time as the cathodic protection system.

c. Internal Lining Combined with Cathodic Protection. Tanks upgraded by both internal lining and cathodic protection installed at the same time shall meet the following:

i. the lining was installed in accordance with the requirements of LAC 33:XI.507; and

ii. the cathodic protection system meets the requirements of Clauses D.1.b.ii, iii, and iv of this Section.

4. Piping Upgrading Requirements. Metal piping that routinely contains regulated substances and is in contact with the soil, backfill, or water shall be cathodically protected and shall meet the requirements of Clauses D.2.b.ii, iii, and iv of this Section.

5. Spill and Overfill Prevention Equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems shall comply with the requirements for spill and overfill prevention equipment for new UST systems specified in Paragraph D.3 of this Section.

6. Emergency Shutoff Valves (Shear or Impact). Emergency shutoff valves at existing facilities must be installed in accordance with Subsection A of this Section and in accordance with the manufacturer's instructions.

#### 7. Reporting Requirements

a. The owner and operator shall notify the Office of Environmental Assessment in writing at least 30 days before beginning a UST system upgrade by submitting a completed UST-ENF-04 form.

b. The UST owner and/or certified worker responsible for the upgrade shall notify the appropriate regional office of the Office of Environmental Assessment by phone, mail, email, fax, or online (when available) seven days prior to commencing any *installation-critical junctures* and *repair-critical junctures* (as defined in LAC 33:XI.1303).

c. An amended registration form (UST-REG-02) shall have been submitted to the Office of Environmental Assessment within 30 days after the UST system was upgraded. The owner and operator must have certified compliance with Subsection C of this Section on the amended registration form (UST-REG-02). Beginning January 20, 1992, the amended registration forms (UST-REG-01 and 02) shall include the name and department-issued certificate number of the individual exercising supervisory control over those steps in the upgrade that involve *installation-critical junctures* or *repair-critical junctures* (as defined in LAC 33:XI.1303) of a UST system. After September 20, 2018, the UST-REG form must be used to comply with this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of Environmental Assessment, LR 31:1066 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), LR 33:2171 (October 2007), LR 34:2116 (October 2008), LR 35:1493 (August 2009), amended by the Office of the Secretary, Legal Division, LR 38:2761 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43: 2143 (November 2017), LR 44:1594 (September 2018).

### §305. Installation Requirements for Partially–Deferred UST Systems

A. The requirements in this Section apply to UST systems partially excluded under LAC 33:XI.101.C.1.a, b, and c.

B. Owners and operators shall install a UST system listed in LAC 33:XI.101.C.1.a, b, or c for the purpose of storing regulated substances (whether of single or double-wall construction) that meets the following requirements.

1. The UST system will prevent releases due to corrosion or structural failure for the operational life of the UST system.

2. The UST system is cathodically protected against corrosion, is constructed of noncorrodible material or of metal clad with a noncorrodible material, or is designed in a manner to prevent the release or threatened release of any stored substance.

3. The UST system is constructed or lined with material that is compatible with the stored substance.

C. Notwithstanding Subsection B of this Section, a UST system without corrosion protection may be installed at a site that a corrosion expert determines is not corrosive enough to cause the UST system to have a release due to corrosion during its operating life. Owners and operators shall maintain records that demonstrate compliance with the requirements of this Subsection for the remaining life of the tank.

D. LAC 33:XI.599.Appendix A lists codes of practice developed by nationally-recognized associations or independent testing laboratories that shall be used to comply with these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1069 (May 2005), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1597 (September 2018).

### §307. Fee Schedule

A. Applicability. These regulations apply to registered UST systems, regardless of their operational status.

#### B. Annual Fees

1. Fees shall be assessed for the State of Louisiana fiscal year (July 1 through June 30).

2. Any UST system shall be assessed the entire annual fee for the fiscal year in which it is installed or permanently closed, regardless of the date during that year on which such action occurs.

3. The owner of the UST system is responsible for payment of the annual fee, any late payment fees, and all outstanding fees and late payment fees.

4. Fees are assessed according to the following schedule.

Fee Number	Annual Fees	Amount
<b>1</b>	<b>Annual Registration Fee</b>	
	All registered UST systems	\$60
<b>2</b>	<b>Annual Maintenance and Monitoring Fees</b>	
a	UST systems at federal facilities (all categories except USTs defined in Fee Number 2.b., which shall be assessed the higher fee)	\$174
b	UST systems containing any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1)	\$726
c	UST systems containing petroleum products not meeting the definition of motor fuels	\$174
<b>3</b>	<b>Motor Fuels Underground Storage Tank Trust Fund Fee</b>	
	UST systems containing new or used motor oil (except USTs identified in LAC 33:XI.1101.C and D)	\$275

C. Amended Registration Fees. The fee for amending or modifying a registration for change of ownership shall be \$60.

#### D. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Louisiana Department of Environmental Quality and mailed to the department at the address provided on the invoice.

#### 2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay method should access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

#### 3. Cash is not an acceptable form of payment.

#### E. Late Payment Fee

1. Fee payments not received within 15 days of the due date will be charged a late payment fee.

2. Any late payment fee shall be calculated from the due date indicated on the invoice.

#### 3. Payments not received by the department by:

a. the fifteenth day from the due date will be assessed a 5 percent late payment fee on the original assessed fee;

b. the thirtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee; and



c. the sixtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

F. Failure to Pay. Failure to pay the prescribed fees as provided herein, within 90 days after the due date, shall constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001, 2014, 2195, and 2195.3 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2181 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:950 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1597 (September 2018), amended LR:45:659 (May 2019).

## Chapter 4. Delivery Prohibition

### §401. Purpose

A. This Chapter implements requirements mandated by the Underground Storage Tank Compliance Act, 42 U.S.C. 6991.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1867 (September 2007).

### §403. Delivery Prohibition of Regulated Substances to Underground Storage Tank Systems

A. Underground storage tank (UST) systems, except for those systems deferred or exempted from specified Chapters and Sections of these regulations in accordance with LAC 33:XI.101.B and C, shall be subject to the status of red tag/delivery prohibition of regulated substances upon discovery by the department of any of the following conditions:

1. failure to install spill prevention equipment in accordance with LAC 33:XI.Chapter 3;
2. failure to install overfill protection equipment in accordance with LAC 33:XI.Chapter 3;
3. failure to conduct release detection in accordance with LAC 33:XI. 703.A.1;
4. failure to install corrosion protection equipment for tanks and product piping in accordance with LAC 33:XI.Chapter 3;

5. allowing a regulated substance to be placed into an unregistered UST in accordance with LAC 33:XI.301.C. 8 or 9;

6. upon evidence of a below-surface release from an UST system, failure to conduct a system test within the time frame established in LAC 33:XI.711.A.1, failure to take initial response actions required by LAC 33:XI.715.B.2 and 3, or failure to conduct the initial abatement measures required by LAC 33:XI.715.C.1.a-d and g; or

7. whenever failed tank or failed piping has not been repaired, replaced, upgraded, or permanently closed, or temporarily closed in accordance with LAC 33:XI.711.A.1.

B. Noncompliance with these regulations as listed in this Subsection shall result in a red tag/delivery prohibition of regulated substances if response action is not taken by the owner/operator within 30 days of receipt of written notification by the department to the owner/operator. Response action will be considered as taken if the owner/operator has contracted and scheduled the action to take place within those 30 days and the response action has been initiated within 60 days of receipt of the written notification. The forms of noncompliance are:

1. failure to properly operate and/or maintain release detection equipment in accordance with LAC 33:XI.Chapter 7. Failure to provide records, within 10 days of request by the department, showing proper operation and/or maintenance of release detection equipment shall be considered a failure to properly operate and/or maintain the release detection equipment;
2. failure to properly operate and/or maintain spill and overfill equipment in accordance with LAC 33:XI.Chapter 3 and 503.D, or corrosion protection equipment in accordance with LAC 33:XI.Chapters 3 and 5. Failure to provide records, within 10 days of request by the department, showing the type of spill, overfill, or corrosion protection equipment installed and the proper operation and/or maintenance of spill, overfill, or corrosion protection equipment shall be considered a failure to properly operate and/or maintain the spill, overfill, or corrosion protection equipment;
3. failure to maintain financial responsibility in accordance with LAC 33:XI.Chapter 11;
4. failure to protect from corrosion buried metal flex hoses and/or components that routinely contain regulated substances in accordance with LAC 33:XI.303.D.2 and E.4. Failure to produce records, within 10 days of request by the department, showing procedures and/or practices designed to protect from corrosion buried metal product piping, flex hoses, and/or components that routinely contain regulated substances shall be considered a failure to protect from corrosion buried metal product piping, flex hoses, and/or components that routinely contain regulated substances;
5. failure to conduct periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and failure to conduct periodic inspection of overfill equipment in accordance with

LAC 33:XI.511, and failure to repair or replace failed equipment in accordance with LAC 33:XI.511.D.2 and 3. Failure to provide records, within 10 days of request by the department, showing proper testing and/or inspection of spill prevention equipment, containment sumps used for interstitial monitoring of piping, and overfill equipment shall be considered failure to properly conduct periodic testing and/or inspecting the equipment;

6. failure to conduct periodic operation and maintenance walkthrough inspections in accordance with LAC 33:XI.513, and failure to repair or replace failed equipment in accordance with LAC 33:XI.513.C.2 and 3. Failure to provide records, within 10 days of request by the department, showing that the periodic operation and maintenance walkthrough inspections were conducted in accordance with LAC 33:XI.513 shall be considered failure to conduct periodic operation and maintenance walkthrough inspections;

7. storing a regulated substance containing greater than 10 percent ethanol or greater than 20 percent biodiesel without demonstrating UST system compatibility in accordance with LAC 33:XI.505.C; or

8. upon evidence of a release or a suspected release from a UST system, except for the notification requirements of LAC 33:XI.713 and 715, failure to initiate by the UST owner the release investigation and confirmation steps in accordance with LAC 33:XI.711, cleanup of spills and overfills as required by LAC 33:XI.713, or compliance with the release response and corrective action requirements of LAC 33:XI.715.

C. It shall be unlawful for any person to place, or allow the placement of, a regulated substance into an UST that the department has red tagged/prohibited from delivery of regulated substances under Subsection A or B of this Section. The department may use its discretion in determining whether a non-delivery due to a red tag/delivery prohibition of regulated substances may jeopardize the availability of, or access to, motor fuel in remote areas of the state or in cases where an emergency declaration is in effect. When the department determines that red tagging/delivery prohibition will jeopardize the availability of, or access, to regulated substances, specifically motor fuels, in remote areas or in cases of an emergency declaration, it may allow for continued delivery of regulated substances, for up to 180 days, to an UST that has failed to have equipment required under Subsection A of this Section installed or that has been deemed noncompliant by the department under Subsection B of this Section.

D. The department shall provide adequate notice to UST system owners/operators and regulated substance deliverers that an UST has been determined to be ineligible for delivery, deposit, or acceptance of a regulated substance. Placing or allowing placement of a regulated substance into an UST determined ineligible for delivery, deposit, or acceptance of a regulated substance constitutes a violation of this Section.

E. The owner/operator of an UST that has been determined to be ineligible for delivery, deposit, or acceptance of a regulated substance shall make the necessary system repairs or upgrades, or remedy any form of noncompliance, and shall be cleared of the red tag/delivery prohibition in writing by the department, or a person authorized by the department, in order to be removed from the red tag listing and be deemed eligible for delivery of regulated substances. The department, or a person authorized by the department, shall remove the red tag/delivery prohibition status for an UST system within two working days after compliance and/or upgrade or repair has been demonstrated.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33: 1867 (September 2007), amended LR 34:2119 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1598 (September 2018), amended by the Office of the Secretary, Legal Affairs Division, LR 51:786 (June 2025).

## Chapter 5. General Operating Requirements

### §501. Spill and Overfill Control

A. LAC 33:XI.599.Appendix A lists codes of practice developed by nationally-recognized associations or independent testing laboratories that shall be used to comply with these regulations.

B. Owners and operators shall ensure that releases due to spilling or overfilling do not occur. Before a transfer is made, the owner and operator shall ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank and that the transfer operation is monitored constantly to prevent overfilling and spilling. Spill and overfill controls shall be conducted in accordance with Subsection A of this Section.

C. Owners and operators shall report, investigate, and clean up any spills and overfills, in accordance with LAC 33:XI.713.

D. Overfill prevention devices must be inspected by removal in accordance with LAC 33:XI.511.A.3 and 511.A.1.b.ii within seven days of any tank overfill event.

E. Tank overfills (when tank is more than 90 or 95 percent full depending on the type of overfill equipment installed) must not occur as a result of tank or piping manifolds. Manifolded UST systems that cause overfills must be immediately taken out of service and repaired, replaced, permanently closed, or placed in temporary closure following the procedures outlined in LAC 33:XI.711.A.1.b.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1069

(May 2005), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1598 (September 2018).

### **§503. Operation and Maintenance of Corrosion Protection**

A. All owners and operators of metal UST systems with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented until the UST system is permanently closed or undergoes a change-in-service in accordance with LAC 33:XI.905.

1. All corrosion protection systems shall be operated and maintained to continuously provide corrosion protection to the metal components of external portions of the tank and piping that routinely contain regulated substances and are in contact with the soil, backfill, or water.

2. All UST systems equipped with cathodic protection systems shall be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements.

a. Frequency. All cathodic protection systems shall be tested within six months after installation and at least once every 36 months thereafter, or according to another timeframe established by the department.

b. Inspection Criteria. The criteria used to determine whether cathodic protection is adequate as required by this Section shall be in accordance with the guidelines established by the department and any applicable industry code or recommended practice listed in LAC 33:XI.501.A.

3. UST systems with impressed current cathodic protection systems shall also be inspected every 60 days to ensure that the equipment is running properly.

B. For UST systems using cathodic protection, records of the operation of the cathodic protection shall be maintained (in accordance with LAC 33:XI.509) to demonstrate compliance with the performance standards in this Section. These records shall provide the following:

1. the results of the last three years of inspections required in Paragraph A.3 of this Section; and

2. the results of testing from the last two inspections required in Paragraph A.2 of this Section.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1069 (May 2005), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1599 (September 2018).

### **§505. Compatibility**

A. Owners and operators shall use a UST system made of or lined with materials that are compatible with the substance stored in the UST system.

B. Owners and operators storing alcohol blends shall do so in accordance with LAC 33:XI.501.A.

C. Owners and operators shall notify the department using the UST-REG form within 30 days of September 20, 2018, if currently storing or at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol, greater than 20 percent biodiesel, or any other regulated substance identified by the department. In addition, owners and operators of UST systems storing these regulated substances shall meet one of the following:

1. demonstrate compatibility of the UST system (including the tank, piping, containment sumps, pumping equipment, release detection equipment, spill prevention equipment, and overfill prevention equipment). Owners and operators may demonstrate compatibility of the UST system by using one of the following options:

a. certification or listing of UST system equipment or components by a nationally recognized, independent testing laboratory for use with the regulated substance; or

b. equipment or component manufacturer approval. The manufacturer's approval shall be in writing, indicating an affirmative statement of compatibility, specifying the range of biofuel blends the equipment or component is compatible with, and be from the equipment component manufacturer; or

2. use another option determined by the department to be no less protective of human health and the environment than the options listed in Paragraph 1 of this Subsection.

D. Owners and operators shall maintain records in accordance with LAC 33:XI.509.B documenting compliance with Paragraph C of this Section for as long as the UST system is used to store the regulated substance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1070 (May 2005), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1599 (September 2018).

### **§507. Repairs Allowed**

A. Owners and operators of UST systems shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs shall meet the following requirements.

1. The UST owner and operator shall notify the Office of Environmental Assessment as specified below:

a. submit a completed installation, renovation, repair, and upgrade notification form (UST-ENF-04) 30 days prior to conducting a repair to a UST system;

b. if the repair is an emergency repair, the UST owner or operator shall submit a completed UST-ENF-04

form within 30 days after completion of the repair detailing the nature of the repair;

c. the UST owner shall submit an amended UST-REG form within 30 days after completion of the repair if any changes of any of the items reflected on the previously submitted forms has changed due to the repair;

d. the UST owner, operator, and/or certified worker responsible for the repairs shall notify the appropriate regional office of the Office of Environmental Assessment by phone, mail, email, fax, or online (when available) seven days prior to commencing any *repair-critical junctures* (as defined in LAC 33:XI.1303).

2. Repairs to UST systems shall be properly conducted in accordance with LAC 33:XI.501.A. Beginning January 20, 1992, all owners and operators shall ensure that the individual exercising supervisory control over *repair-critical junctures* (as defined in LAC 33:XI.1303) is certified in accordance with LAC 33:XI.Chapter 13.

3. Repairs to fiberglass-reinforced plastic tanks shall be made either by the manufacturer's authorized representatives or in accordance with LAC 33:XI.501.A.

4. Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. Noncorrodible pipes and fittings shall be repaired or replaced in accordance with the manufacturer's specifications.

5. Repairs to secondary containment areas of tanks and piping used for interstitial monitoring and to containment sumps used for interstitial monitoring of piping shall have the secondary containment tested for tightness according to the manufacturer's instructions, in accordance with LAC 33:XI.501.A, or according to requirements established by the department within 30 days following the repair. For all other repairs to tanks and piping, tanks and piping shall be tightness tested in accordance with LAC 33:XI.701.A.3 and B.2 or another test method that has been given prior approval by the department after it determined the method to be no less protective of human health and the environment. The tightness testing shall be conducted within 30 days after the date that the repair is completed.

a. Repairs to containment sumps shall be made in accordance with the containment sump manufacturer requirements, the containment sump repair equipment manufacturer requirements, or in accordance with LAC 33:XI.501.A.

b. Containment sump repair equipment used to repair a containment sump must be compatible with the product stored in the UST system.

6. Within six months following the repair of any cathodically protected UST system, the cathodic protection system shall be tested in accordance with LAC 33:XI.503.A.2 and 3 to ensure that it is operating properly.

7. After December 20, 2008, if any piping repair or replacement impacts 25 percent or more of the UST piping in the repaired piping run, that entire piping run shall be

upgraded with secondary containment and meet the requirements of LAC 33:XI.303.D.2 and 701.B.4.

8. Within 30 days following any repair to spill or overfill prevention equipment, the repaired spill or overfill equipment shall be tested or inspected, as appropriate, in accordance with LAC 33:XI.511 to ensure that it is operating properly.

a. Repairs to spill prevention equipment shall be made in accordance with spill prevention manufacturer requirements, spill prevention equipment repair manufacturer requirements, or in accordance with LAC 33:XI.501.A.

b. Spill prevention repair equipment used to repair spill prevention equipment must be compatible with the product stored in the UST system.

9. If a tank is repaired by addition of an internal liner, the lining shall be inspected within 10 years of installation and every five years thereafter in accordance with LAC 33:XI.303.E.3.a. If the internal lining is no longer performing in accordance with the original design specifications and cannot be repaired in accordance with a code of practice developed by a nationally-recognized association or independent testing laboratory, then the lined tank shall be permanently closed in accordance with LAC 33:XI.Chapter 9.

B. Owners and operators of UST systems shall maintain records, in accordance with LAC 33:XI.509.B, of each repair until the UST system is permanently closed or undergoes a change-in-service in accordance with LAC 33:XI.Chapter 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), amended by the Office of Environmental Assessment, LR 31:1070 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), LR 34:2119 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2761 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2144 (November 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2144 (November 2017), LR 44:1599 (September 2018).

#### **§509. Reporting and Recordkeeping**

A. Reporting. Owners and operators shall submit the following information to the department:

1.a. applicable registration forms (UST-REG-01 and 02 or UST-REG) for all UST systems (LAC 33:XI.301), including certification of installation and verification of installer certification for new UST systems (LAC 33:XI.303.D.6.b); and

b. notification when any person assumes ownership of a UST system (LAC 33:XI.301.C.5);

2. reports of all releases, including suspected releases (LAC 33:XI.707), spills and overfills (LAC 33:XI.713), and confirmed releases (LAC 33:XI.715.B);

3. descriptions of corrective actions planned or taken, including initial abatement measures (LAC 33:XI.715.C), initial site characterization (LAC 33:XI.715.D), free product removal (LAC 33:XI.715.E), investigation of soil and groundwater cleanup (LAC 33:XI.715.F), and corrective action plan (LAC 33:XI.715.G);

4. notification before permanent closure or change-in-service (LAC 33:XI.905);

5. results of the site investigation conducted at permanent closure (LAC 33:XI.907);

6. results of the temporary closure site investigation (LAC 33:XI.903.E);

7. notification within 30 days of September 20, 2018, and within 30 days prior to UST systems storing or switching to certain regulated substances (LAC 33:XI.505.C); and

8. notification before and/or after UST system repairs (LAC 33:XI.507.A.1).

B. Recordkeeping. Owners and operators shall maintain the following information:

1.a. a corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (LAC 33:XI.303.D.1.d and D.2.c); and

b. a corrosion expert's design documentation for all field-installed corrosion protection systems (LAC 33:XI.303.D.1.b.ii and D.2.b.ii);

2. documentation of operation of corrosion protection equipment (LAC 33:XI.503.B);

3. documentation of UST system repairs (LAC 33:XI.507.B);

4. documentation of compliance with release detection requirements (LAC 33:XI.705);

5.a. copies of the most current applicable registration forms (UST-REG-01 and 02 or UST-REG) filed with the department; and

b. a copy of the current registration certificate (LAC 33:XI.301.C.7 and 1133.B.5);

6. documentation of the type and construction of the tank, piping, leak detection equipment, corrosion protection equipment, and spill and overfill protection equipment currently in use at the site;

7. documentation of permanent closure, where applicable;

8. documentation of compatibility for the UST system (LAC 33:XI.505.D);

9. documentation of compliance with spill prevention equipment testing, overfill prevention equipment

inspections, and containment sumps used for interstitial monitoring of piping testing (LAC 33:XI.511.C);

10. documentation of periodic walkthrough inspections (LAC 33:XI.513.B);

11. documentation of shear valve inspection and testing (LAC 33:XI.515.C); and

12. documentation of operator training (LAC 33:XI.611).

C. Availability and Maintenance of Records. Owners and operators shall either keep the records required at the UST site and immediately available for the department's inspection, or keep them at a readily available alternative site and provide them to the department for inspection upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of Environmental Assessment, LR 31:1070 (May 2005), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 32:393 (March 2006), amended LR 34:2119 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1600 (September 2018), amended by the Office of the Secretary, Legal Affairs Division, LR 51:786 (June 2025).

#### **§511. Periodic Testing of Spill Prevention Equipment and Containment Sumps used for Interstitial Monitoring of Piping and Periodic Inspection of Overfill Prevention Equipment**

A. Owners and operators of UST systems with spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping shall meet the following requirements to ensure the equipment is operating properly and it will prevent releases to the environment.

1. Spill prevention equipment (e.g., a catch basin, spill bucket, or other spill containment device) shall prevent releases to the environment by meeting one of the following requirements.

a. The equipment is double-walled and the integrity of both walls is periodically monitored at a frequency no less than the frequency of the walkthrough inspections described in LAC 33:XI.513. Owners and operators shall begin meeting Subparagraph b of this Paragraph and conduct a test within 30 days of discontinuing periodic monitoring of the equipment.

b. The spill prevention equipment is tested at least once every three years to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

i. requirements developed by the manufacturer (owners and operators may use this option only if the manufacturer has developed requirements);

ii. in accordance with LAC 33:XI.501.A; or

iii. requirements developed by the department to be no less protective of human health and the environment than the requirements listed in Clauses i and ii of this Subparagraph.

2. Containment sumps used for interstitial monitoring of piping shall prevent releases to the environment by meeting one of the following requirements.

a. The equipment is double-walled and the integrity of both walls is periodically monitored at a frequency not less than the frequency of the walkthrough inspections described in LAC 33:XI.513. Owners and operators shall begin meeting Subparagraph b of this Paragraph and conduct a test within 30 days of discontinuing periodic monitoring of the equipment.

b. The containment sump used for interstitial monitoring of piping is tested at least once every three years to ensure the equipment is liquid-tight by using vacuum, pressure, or liquid testing in accordance with one of the criteria in Clauses 1.b.i–iii of this Subsection.

3. Overfill prevention equipment shall be inspected at least once every three years. At a minimum, the inspection shall ensure that the overfill prevention is set to activate at the correct level specified in LAC 33:XI.303.D.3.a.ii and will activate when regulated substance reached that level. Inspections shall be conducted in accordance with one of the criteria in Paragraph A.1.b.i–iii. of this Section.

B. Owners and operators shall begin meeting the following requirements.

1. For UST systems in use on or before September 20, 2018 the initial spill prevention equipment test, containment sump test, and overfill prevention equipment inspection shall be conducted no later than September 20, 2021.

2. For UST systems brought into use after September 20, 2018, these requirements apply at installation.

C. Owners and operators shall maintain records for spill prevention equipment, containment sumps used for interstitial monitoring of piping, and overfill prevention equipment in accordance with LAC 33:XI.509.B as follows:

1. all records of testing or inspection shall be maintained for three years; and/or

2. for spill prevention equipment and containment sumps used for interstitial monitoring of piping not tested every three years, documentation showing that the prevention equipment is double-walled and the integrity of both walls is periodically monitored shall be maintained for as long as the equipment is periodically monitored.

D. Owners and operators shall comply with the following requirements whenever a test of spill prevention equipment or containment sumps used for interstitial monitoring of piping or an inspection of overfill prevention equipment fails.

1. Failed equipment shall be repaired or replaced within 30 days of failing the test or inspection unless an

alternative timeframe is granted, in writing, by the department.

2. Repairs to failed equipment shall be conducted in accordance with LAC 33:XI.507.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1601 (September 2018).

### **§513. Periodic Operation and Maintenance Walkthrough Inspections**

A. To properly operate and maintain UST systems, not later than September 20, 2021, owners and operators shall meet one of the following:

1. conduct a walkthrough inspection that, at a minimum, checks the following equipment as specified below:

a. every 30 days (exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than 30 days may be checked prior to each delivery):

i. for spill prevention equipment:

(a). visually check for damage;

(b). remove liquid and debris;

(c). check for and remove obstructions in the fill pipe;

(d). check the fill cap to make sure it is secured on the fill pipe; and

(e). for double-walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area; and

ii.(a). for release detection equipment—check to make sure the release detection equipment is operating with no alarms or unusual operating conditions present; and

(b). ensure records of release detection testing are reviewed and current; and

b. every 12 months:

i. for any containment sump installed after December 20, 2008, and any containment sump used for interstitial monitoring of piping:

(a). visually check for damage to the sump and equipment within the sump;

(b). visually check for leaks to the containment area;

(c). visually check for releases to the environment;

(d). remove liquid and debris from containment sumps; and

(e). for double-walled sumps with interstitial monitoring, check for a leak in the interstitial area;

ii. for containment sumps installed before December 20, 2008, that are not used for interstitial monitoring of piping:

(a). visually check for damage to equipment within the sump;

(b). visually check for releases in the containment sump and to the environment;

(c). visually check for the presence of cathodic protection if the sump contains water that is in contact with metal components that routinely contain product; and

(d). remove any debris within the sump;

iii. for submersible turbine pump and under-dispenser areas that do not have containment sumps:

(a). visually check for damage to the equipment within the area;

(b). visually check for releases to the environment;

(c). visually check for the presence of cathodic protection if any metal components that routinely contain product are in contact with soil, backfill, or water; and

(d). remove any debris;

iv. for hand-held release detection equipment—check devices (e.g., tank gauge sticks or groundwater bailers) for operability and serviceability;

2. conduct operation and maintenance walkthrough inspections in accordance with LAC 33:XI.501.A that checks equipment comparable to Paragraph 1 of this Subsection; or

3. conduct operation and maintenance walkthrough inspections in accordance with requirements developed by the department that checks equipment comparable to Paragraph 1 of this Subsection.

B. Owners and operators shall maintain records in accordance with LAC 33:XI.509.B of operation and maintenance walkthrough inspections for three years. Records shall include:

1. a list of the areas checked;
2. whether each area checked was acceptable or needed action taken;
3. a description of actions taken to correct an issue; and
4. delivery records if spill prevention equipment is checked less frequently than every 30 days due to infrequent deliveries.

C. Owners and operators shall comply with the following requirements whenever an inspection of spill prevention equipment and containment sumps used for interstitial monitoring fails and requires a repair.

1. Failed equipment that requires a repair shall be repaired or replaced within 30 days of failing the inspection,

unless an alternative timeframe is granted in writing by the department.

2. Repairs to failed equipment shall be conducted in accordance with LAC 33:XI.507.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1602 (September 2018).

#### **§515. Periodic Testing of Shear Valves**

A. Owners and operators of UST systems with shear valves shall meet the following requirements to ensure the equipment is operating properly and will prevent releases to the environment.

1. Shear valves (e.g., impact valves, emergency shutoff valves, and crash valves) shall be inspected and tested at least once every 12 months to ensure the equipment is properly anchored in accordance with the manufacturer requirements and tripped to ensure that product flow will be stopped in accordance with one of the following:

a. requirements developed by the manufacturer (owners and operators may use this option only if the manufacturer has developed requirements);

b. in accordance with LAC 33:XI.501.A; or

c. requirements developed by the department to be no less protective of human health and the environment than the requirements listed in Clauses a and b of this Subparagraph.

B. Owners and operators shall meet the following requirements for:

1. UST systems in use on or before September 20, 2018, the shear valve test shall be conducted not later than September 20, 2021; or

2. UST systems brought into use after September 20, 2018, these requirements apply at installation.

C. Owners and operators shall maintain shear valve inspection and test records, in accordance with LAC 33:XI.509.B for three years.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1603 (September 2018).

#### **§599. Appendix A—Industry Codes and Standards\***

##### **A. API Standards**

American Petroleum Institute 1220 L Street, N.W., Washington, DC 20005-4070	
Applicable Regulations**	Codes and Standards
LAC 33:XI.501.B	API Recommended Practice 1007, "Loading and Unloading of MC306/DOT 406 Cargo Tank Motor Vehicles"
LAC 33:XI.905.D	API Recommended Practice 1604, "Closure of Underground Petroleum Storage Tanks"

## ENVIRONMENTAL QUALITY

<b>American Petroleum Institute</b> <b>1220 L Street, N.W., Washington, DC 20005-4070</b>	
<b>Applicable Regulations**</b>	<b>Codes and Standards</b>
LAC 33:XI.303.D.6.a	API Publication 1615, "Installation of Underground Petroleum Storage Systems"
LAC 33:XI.501.B	The transfer procedures described in API Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets"*****
LAC 33:XI.505.B	API Recommended Practice 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations"
LAC 33:XI.303.E.3	API Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks"****
LAC 33:XI.303.E.3.a.ii LAC 33:XI.507.A.2 LAC 33:XI.905.D	API Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks"
LAC 33:XI.303.D.2.b LAC 33:XI.303.E.3 LAC 33:XI.303.E.4 LAC 33:XI.305.B LAC 33:XI.305.C	API Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"
LAC 33:XI.905.D	API Standard 2015, "Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry From Decommissioning Through Recommissioning"
LAC 33:XI.905.D	API Recommended Practice 2016, "Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks"
LAC 33:XI.507.A.2	API Recommended Practice RP 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines"

### B. ASTM Standards

<b>ASTM International</b> <b>100 Barr Harbor Drive, West, Conshohocken, PA 19428-2959</b>	
<b>Applicable Regulations**</b>	<b>Codes and Standards</b>
LAC 33:XI.803.B	ASTM Standard G158, "Standard Guide for Three Methods of Assessing Buried Steel Tanks"

### C. FTPI Standards

<b>Fiberglass Tank and Pipe Institute</b> <b>8252 S. Harvard Avenue, Suite 102, Tulsa, OK 74137</b>	
<b>Applicable Regulations**</b>	<b>Codes and Standards</b>
LAC 33:XI.507.A.2	FTPI RP T-95-01, "Remanufacturing of Fiberglass Reinforced Plastic (FRP) Underground Storage Tanks"
LAC 33:XI.507.A.5	FTPI RP 2007-2, "Field Test Protocol for Testing the Annular Space of Installed Underground Fiberglass Double and Triple-Wall Tanks with Dry Annular Space"

### D. KWA Standards

<b>Ken Wilcox Associates, Inc.</b> <b>1125 Valley Ridge Drive, Grain Valley, MO 64029</b>	
<b>Applicable Regulations**</b>	<b>Codes and Standards</b>
LAC 33:XI.303.E.3.a.ii	KWA Recommended Practice, "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera"

### E. NIOSH Standards

<b>National Institute for Occupational Safety and Health</b> <b>1600 Clifton Road, Atlanta, GA 30329</b>	
<b>Applicable Regulations**</b>	<b>Codes and Standards</b>
LAC 33:XI.905.D	NIOSH Publication 80-106, "Criteria for a Recommended Standard for Working in Confined Spaces"

### F. NACE Standards

<b>NACE International</b> <b>15835 Park Ten Place, Houston, TX 77084</b>	
<b>Applicable Regulations**</b>	<b>Codes and Standards</b>
LAC 33:XI.303.D.2.b LAC 33:XI.303.E.4 LAC 33:XI.305.B LAC 33:XI.305.C LAC 33:XI.503.A.2 LAC 33:XI.803.B	NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems"
LAC 33:XI.303.D.1.b LAC 33:XI.303.D.2.b LAC 33:XI.303.E.4 LAC 33:XI.305.B LAC 33:XI.305.C LAC 33:XI.503.A.2 LAC 33:XI.507.A.2 LAC 33:XI.803.B	NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection"
LAC 33:XI.303.E.3	National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"****
LAC 33:XI.503.A.2	NACE International Test Method TM0101, "Measurement Techniques Related to Criteria for Cathodic Protection of Underground Storage Tank Systems"
LAC 33:XI.503.A.2	NACE International Test Method TM0497, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems"

### G. NFPA Standards

<b>National Fire Protection Association</b> <b>1 Batterymarch Park, Quincy, MA 02169-7471</b>	
<b>Applicable Regulations**</b>	<b>Codes and Standards</b>
LAC 33:XI.303.D.6.a LAC 33:XI.507.A.2	NFPA Standard 30, "Flammable and Combustible Liquids Code"
LAC 33:XI.303.D.6.a	NFPA Standard 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages"
LAC 33:XI.507.A.2 LAC 33:XI.905.D	NFPA Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair"
LAC 33:XI.501.B	The transfer procedures described in NFPA Standard 385, "Standard for Tank Vehicles for Flammable and Combustible Liquids"

### H. NLPA Standards



National Leak Prevention Association Box 1643, Boise, ID 83701	
Applicable Regulations**	Codes and Standards
LAC 33:XI.303.E.3	NLPA Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection"***
LAC 33:XI.507.A.2	NLPA Standard 631, Chapter A, "Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks"
LAC 33:XI.303.E.3.a.ii	NLPA Standard 631, Chapter B, "Future Internal Inspection Requirements for Lined Tanks"
LAC 33:XI.803.B	NLPA Standard 631, Chapter C, "Internal Inspection of Steel Tanks for Retrofit of Cathodic Protection"

## I. PEI Standards

Petroleum Equipment Institute Box 2380, Tulsa, OK 74101-2380	
Applicable Regulations**	Codes and Standards
LAC 33:XI.303.D.6.a	PEI Recommended Practice RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"
LAC 33:XI.513.A.2	PEI Recommended Practice RP900, "Recommended Practices for the Inspection and Maintenance of UST Systems"
LAC 33:XI.507.A.5 LAC 33:XI.511.A.1.b LAC 33:XI.511.A.2.b LAC 33:XI.511.A.3 LAC 33:XI.515.A.1 LAC 33:XI.703.A.2.d	PEI Recommended Practice RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities"

## J. STI Standards

Steel Tank Institute 944 Sonata Court, Lake Zurich, IL 60047	
Applicable Regulations**	Codes and Standards
LAC 33:XI.303.D.2.b LAC 33:XI.303.E.4 LAC 33:XI.305.B LAC 33:XI.305.C	STI Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems"
LAC 33:XI.303.D.1.c	STI Specification F922, "Steel Tank Institute Specification for Permatank®"
LAC 33:XI.507.A.2	STI Recommended Practice R972 "Recommended Practice for the Addition of Supplemental Anodes to STI-P3® Tanks"
LAC 33:XI.303.D.1.b	Steel Tank Institute, "STI-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks"
LAC 33:XI.303.D.1.b	STI Standard F841, "Standard for Dual Wall Underground Steel Storage Tanks"
LAC 33:XI.303.D.1.c	STI ACT-100® Specification F894, "Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks"
LAC 33:XI.303.D.1.c	STI ACT-100U® Specification F961, "Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks"
LAC 33:XI.503.A.2	STI Recommended Practice R051, "Cathodic Protection Testing Procedures for STI-P3® USTs"

Steel Tank Institute 944 Sonata Court, Lake Zurich, IL 60047	
Applicable Regulations**	Codes and Standards
LAC 33:XI.507.A.5	STI Recommended Practice R012, "Recommended Practice for Interstitial Tightness Testing of Existing Underground Double Wall Steel Tanks"

## K. UL Standards

Underwriters Laboratories Inc. 333 Pfingsten Road, Northbrook, IL 60062	
Applicable Regulations**	Codes and Standards
LAC 33:XI.303.D.1.b	UL Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids"
LAC 33:XI.303.D.2.a	UL Standard 971, "Non-Metallic Underground Piping for Flammable Liquids"
LAC 33:XI.303.D.1.a	UL Standard 1316, "Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures"
LAC 33:XI.303.D.1.b LAC 33:XI.303.D.1.c	UL Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks"
LAC 33:XI.303.D.2.b LAC 33:XI.303.E.4	UL Standard 971A, "Outline of Investigation for Metallic Underground Fuel Pipe"

## L. UL of Canada Standards

Underwriters Laboratories Inc. 333 Pfingsten Road, Northbrook, IL 60062-2096	
Applicable Regulations**	Codes and Standards
LAC 33:XI.303.D.1.a	UL of Canada Standard S615, "Standard for Reinforced Plastic for Flammable and Combustible Liquids"
LAC 33:XI.303.D.1.b	UL of Canada Standard S603, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids"
LAC 33:XI.303.D.1.b	UL of Canada Standard S603.1, "Standard for External Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids"
LAC 33:XI.303.D.1.b	UL of Canada Standard S631, "Standard for Isolating Bushings for Steel Underground Tanks Protected with External Corrosion Protection Systems"
LAC 33:XI.303.D.2.a	UL of Canada Standard S660, "Standard for Nonmetallic Underground Piping for Flammable and Combustible Liquids"

Section 599, Appendix A—Industry Codes and Standards:  
Footnotes

\*Industry codes and standards are copyrighted and are available only from the developing organizations. These codes and standards must be purchased directly from the developing organizations.

\*\*UST owners shall comply with the version of the code of practice that is in place at the time the UST system work is performed.

\*\*\*Historical code of practice listed as an option for complying with LAC 33:XI.303.E.3 by December 22, 1998.

\*\*\*\*Contains further guidance on spill and overfill prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., 2194, and 2194.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR

31:1070 (May 2005), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1603 (September 2018).

## Chapter 6. Training Requirements for Underground Storage Tank System Operators

### §601. Purpose

A. This Chapter implements requirements mandated by the Underground Storage Tank Compliance Act, 42 U.S.C. 6991.

B. The requirements outlined in this Chapter apply to UST systems regulated under this Part, except those excluded by regulation in LAC 33:XI.101.B and C.

C. Owners and operators of UST systems described in Subsection B of this Section must comply with the UST operator training requirements listed in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:313 (February 2010), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1605 (September 2018).

### §603. Underground Storage Tank Operator Classes

A. There shall be three classes of UST operators, identified as class A, class B, and class C.

1. Designation. Owners of UST systems described in LAC 33:XI.601.B shall designate for each UST system or group of UST systems at a facility, at least one named individual for each class of operators.

a. UST owners may designate a different individual for each class of operators, or one individual for more than one operator class.

b. Any individual designated for more than one operator class shall be trained and certified for each operator class that the individual is designated to represent.

c. Class A and B UST operators are not required to be on-site during hours of operation if a class C UST operator is present during hours of operation.

d. Class A and B UST operators are required for all temporarily closed UST facilities.

e. During hours of operation, UST facilities shall have at least one certified UST operator (either a class A, class B, or class C UST operator) present at the UST facility, except when a UST facility is unmanned. A UST facility is considered unmanned when there is no attendant present at the facility who could respond to alarms or emergencies caused by spills or overfills from the UST system. Examples of UST facilities that may be un-manned at times include, but are not limited to;

i. card lock or card access fueling stations with no attendant present at the time of operation;

ii. telecommunication towers or utility transfer stations serviced by emergency generator USTs;

iii. unattended UST systems located at industrial facilities; and

iv. temporarily closed UST facilities.

2. Training. Individuals designated as Class A, B, or C UST operators shall be trained and certified in accordance with these regulations by the applicable deadlines in LAC 33:XI.607.

B. The three classes of UST operators are identified as follows.

#### 1. Class A UST Operator

a. Functions. A Class A operator of a UST system is the tank owner, or person designated by the tank owner to represent the owner's interest, who has the primary responsibility of ensuring the proper operation and maintenance of the UST system, including managing resources and personnel necessary to achieve and maintain compliance with these regulations.

b. Qualifications and Training. Class A UST operators shall be trained in and have a general knowledge of the requirements of these regulations, including, but not limited to:

i. the UST registration;

ii. system components;

iii. product and equipment compatibility and demonstration;

iv. spill and overfill prevention;

v.(a). corrosion protection; and

(b). release detection requirements and

(c). the UST recordkeeping and notification requirements;

vi. release and suspected release reporting and response requirements;

vii. temporary and permanent closure requirements;

viii. operator training requirements; and

ix. financial responsibility requirements.

#### 2. Class B UST Operator

a. Functions. A Class B operator of a UST system is a person or persons designated by the tank owner to implement all applicable requirements of these regulations in the field and to implement the day-to-day aspects of the operation and maintenance of, and recordkeeping for, UST systems at one or more facilities.

b. Qualifications. Class B UST operators:

i. shall be capable of monitoring, maintaining, and ensuring compliance with all:

(a). the release detection and prevention methods and equipment requirements;

(b). the release detection and prevention recordkeeping and reporting requirements; and

(c). the release detection equipment performance standards; and

ii. shall be capable of ensuring that class C UST operators;

(a). are trained in facility-specific emergency procedures and notification requirements; and

(b). that these procedures and requirements are posted for the use of class C UST operators.

c. Training. Class B UST operators shall be trained in and have knowledge of the following:

i. UST system components;

ii. operation and maintenance;

iii. spill and overfill prevention;

iv. release detection and related reporting;

v. corrosion protection;

vi. emergency response procedures;

vii. product and equipment compatibility and demonstration;

viii. reporting, recordkeeping, testing, and inspections; and

ix. training requirements for class C UST operators.

### 3. Class C UST Operator

a. Function. A Class C operator of a UST system is a person or persons designated by the tank owner to be responsible for the effective response to alarms or other indications of emergencies caused by spills, overfills, or releases from UST systems, and to any other indication of possible releases from UST systems.

b. Training. Class C UST operators shall be trained in emergency response procedures, which shall include the operation of emergency shut-off equipment, initial response procedures to alarms and releases, and required notifications to emergency responders and to the designated class A and class B operators of a UST system.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:313 (February 2010), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1605 (September 2018).

## **§605. Acceptable UST Operator Training and Certification Processes**

A. Training. Operator training shall evaluate operator fulfillment of the training requirements described for each

class of operator in LAC 33:XI.603. The following is a list of acceptable approaches to meet the operator training requirements.

1. Acceptable Training for Class A and Class B UST Operators. Class A and class B UST operators shall complete a UST operator training seminar that includes the information listed in LAC 33:XI.603.B.1 or 2, respectively, and that has received approval by the department. This program may include in-class or hands-on training performed, contracted for, or approved by the department, and shall include an evaluation of operator knowledge through testing, practical demonstration, or other tools deemed acceptable by the department.

### 2. Acceptable Training for Class C UST Operators

a. Class A or class B UST operators shall ensure that the UST facility's class C UST operators complete training in emergency procedures that includes the information listed in LAC 33:XI.603.B.3. Class C UST operator training programs may include in-class, hands-on, on-line, or any other training format deemed acceptable by the class A or class B UST operator.

b. UST owners and class B UST operators shall ensure that site-specific notices that include site-specific emergency procedures, the location of emergency shut-off devices, and appropriate emergency contact telephone numbers are posted in a prominent area at the UST facility that is easily visible to the class C UST operator.

B. Certification. UST operators are considered certified UST operators after successfully completing one of the training processes listed in Subsection A of this Section.

1. Class A and Class B UST Operators. The department or a department-approved training contractor will provide written verification to all Class A and Class B UST operators who have successfully completed training, in the form of a training certificate stating the classification(s) obtained.

2. Class C UST Operators. Certified class A or class B UST operators for a UST facility shall submit, to the department or a department-approved contractor, a list of all class C UST operators at that facility who have been trained, and the department or department-approved contractor will provide each such class C UST operator with written verification of successful training completion in the form of a training certificate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:314 (February 2010), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1606 (September 2018).

## **§607. Underground Storage Tank Operator Training Deadlines**

A. On or after February 20, 2010, owners of UST systems shall designate their class A and class B UST operators and provide these designations to department

personnel or to department-contracted inspectors during department or contract inspections.

B. All class A and class B UST operators shall have completed an acceptable operator training course as specified in LAC 33:XI.605 by August 8, 2012.

C. All class C UST operators shall have completed an acceptable operator training course as specified in LAC 33:XI.605 by August 8, 2012.

D. After August 8, 2012, UST owners shall require that all newly-designated class A or class B UST operators complete an acceptable operator training course as specified in LAC 33:XI.605 within 30 days after assuming operation and maintenance responsibilities at the UST system.

E. After August 8, 2012, UST owners shall require that all newly-designated class C UST operators complete an acceptable operator training course as specified in LAC 33:XI.605 before assuming unsupervised responsibility for responding to emergencies at UST system facilities.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:315 (February 2010), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1606 (September 2018).

#### **§609. Underground Storage Tank Operator Training Frequency**

A. Certified class A and class B UST operators shall be re-trained in accordance with LAC 33:XI.603 and 605 within three years of their last training date.

1. Certified Class A and Class B UST operators who are the designated operators for multiple facilities are only required to attend one department-approved UST operator training seminar every three years.

2. Certified Class A and Class B UST operators may work at any UST facility in Louisiana without having to be re-trained until their certifications expire.

B. Certified class C UST operators may only work at UST facilities owned by the UST owners that provided their initial training without having to be re-trained. Class C UST operators shall be re-trained prior to assuming responsibility at a facility owned by a different UST owner that did not provide the initial training.

C. When issues of noncompliance are noted at a facility, class A and/or class B UST operators, as determined by the department for that UST facility, shall attend either a department-sponsored compliance class that addresses the noted noncompliant areas or an acceptable operator training course as specified in LAC 33:XI.605, as determined by the department, within the time frame given in the notification by the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs

Division, LR 36:315 (February 2010), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1606 (September 2018).

#### **§611. Documentation of Underground Storage Tank Operator Training**

A. Owners and operators shall maintain the following records demonstrating compliance with UST operator training requirements for operators associated with the facility:

1. a training certificate for each person who is currently serving as a Class A, Class B, or Class C UST operator for as long as that person serves as a UST operator for the facility; and

2. a list of emergency procedures, which includes site-specific emergency procedures, the location of emergency shut-off devices, and appropriate emergency contact telephone numbers, that is posted in a prominent area at the UST facility that is easily visible to the Class C UST operator.

B. Owners and operators shall either keep the required training records at the UST site and immediately available for the department's inspection, or at a readily available alternative location and provide them to the department for inspection upon request.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:315 (February 2010), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1607 (September 2018).

## **Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response**

### **§701. Methods of Release Detection**

A. Tanks. Each method of release detection for tanks used to meet the requirements of LAC 33:XI.703.B shall be conducted in accordance with the following.

1. Inventory Control. Product inventory control (or another test of equivalent performance) shall be conducted monthly in a manner to ensure the detection of any release as small as 1.0 percent of flow-through plus 130 gallons on a monthly basis in the following manner.

a. Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank shall be recorded each operating day.

b. The equipment used shall be capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch.

c. Inputs of regulated substances shall be reconciled with delivery receipts measuring the tank inventory volume before and after delivery.

d. Deliveries shall be made through a drop tube that extends to within 1 foot of the tank bottom.

e. Product dispensing shall be metered and recorded within the local standards for meter calibration or an accuracy of 6 cubic inches for every 5 gallons of product withdrawn.

f. Measurements of any water level in the bottom of the tank shall be made to the nearest 1/8 of an inch at least once a month.

g. Practices described in the American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," may be used, where applicable, as guidance in meeting the requirements of Paragraph A.1 of this Section.

2. Manual Tank Gauging. Tanks having a nominal capacity of 550 gallons or less and tanks having a nominal capacity of 551 to 1,000 gallons that meet the tank diameter criteria in the table in Subparagraph 2.d of this Subsection may use manual tank gauging as the sole method of release detection. All other tanks with a nominal capacity of 551-2,000 gallons may use this method in place of the manual inventory control described in Paragraph 1 of this Subsection. Tanks having a nominal capacity of greater than 2,000 gallons may not use this method to meet the requirements of this Subsection. Manual tank gauging shall meet the following requirements.

a. Tank liquid levels shall be measured at the beginning and ending of a period using the appropriate minimum duration of the test provided in the table in Paragraph 2.d of this Section, during which no liquid is added to or removed from the tank. For the purposes of Subparagraph d of this Paragraph, this constitutes one test.

b. Liquid level measurements shall be based on an average of two consecutive stick readings at both the beginning and ending of the period.

c. The equipment used shall be capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch.

d. A leak shall be suspected and subject to the requirements of LAC 33:XI.707-713 if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table.

Nominal Tank Capacity	Minimum Duration of Test	Weekly Standard (One Test)	Monthly Standard (Average of 4 Tests)
550 gallons or less	36 hours	10 gallons	5 gallons
551-1000 gallons (when tank diameter is 64 inches)	44 hours	9 gallons	4 gallons
551-1000 gallons (when tank diameter is 48 inches)	58 hours	12 gallons	6 gallons

551-1000 gallons (also requires periodic tank tightness testing)	36 hours	13 gallons	7 gallons
1001-2000 gallons (also requires periodic tank tightness testing)	36 hours	26 gallons	13 gallons

3. Tank Tightness Testing. Tank tightness testing (or another test of equivalent performance) shall be capable of detecting a 0.1-gallon-per-hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

#### 4. Automatic Tank Gauging (ATG)

a. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control shall meet the following requirements:

i. the automatic product level monitor test shall be capable of detecting a 0.2-gallon-per-hour leak rate from any portion of the tank that routinely contains product;

ii. the automatic tank gauging equipment shall meet the inventory control requirements of Subparagraphs 1.b and 1.f of this Subsection (or another test of equivalent performance); and

iii. the test shall be performed with the system operating in one of the following modes:

(a). in-tank static testing conducted at least once every 30 days; or

(b). continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the system to gather incremental measurements to determine the leak status at least once every 30 days.

#### 5. External Release Detection Devices

a. General. External release detection devices (RDDs) consist of slotted (screened) piping installed within the excavation zone to permit either the testing or monitoring of vapors or the testing or monitoring for liquids on the water table. All RDDs shall meet the following requirements.

i. All RDDs shall have a 4-inch inside diameter and be constructed of either polyvinyl chloride (PVC), polytetrafluoroethylene (PTFE), or stainless steel, and shall be chemically compatible with the stored product. The screened interval shall be commercially fabricated, slotted, or continuously wound. Screen size shall be 0.01 inches. No solvents, glues, epoxies, thermal processes, or rivets shall be used.

ii. The screened interval shall extend from 1 foot beneath the ground surface through the entire excavation zone.

iii. Each RDD shall be sealed from the ground surface to a depth of 1 foot and provided with a locking cap.

Each RDD shall be installed in such a fashion as to preclude the introduction of surface contaminants into the RDD.

iv. No RDD shall be installed within or penetrate native soils unless the hydraulic conductivity of the native soil is no less than 0.01 centimeters per second.

v. If only one UST system is located within the excavation zone, at least two RDDs shall be installed. For excavation zones containing between two and four UST systems, at least four RDDs shall be installed. If more than four UST systems are situated within a common excavation zone, additional RDDs shall be installed as appropriate to ensure adequate coverage for release detection. If, prior to the implementation of these regulations, fewer RDDs than required in this Clause were installed at a specific location, the owner or operator may request a variance by demonstrating to the satisfaction of the administrative authority that the excavation zone in question can be adequately monitored.

vi. A UST owner or operator may request a variance to the RDD construction requirements outlined above by demonstrating to the department that the proposed deviations will allow the excavation zone to be adequately monitored.

b. Vapor Monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone shall meet the following requirements.

i. The materials used as backfill shall be sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area.

ii. The stored regulated substance, or a tracer compound placed in the tank system, shall be sufficiently volatile (e.g., gasoline) to result in a vapor level detectable by the monitoring devices located in the excavation zone in the event of a release from the tank.

iii. The measurement of vapors by the monitoring devices shall not be rendered inoperative by the groundwater, rainfall, or soil moisture, or other known interferences, so that a release could go undetected for more than 30 days.

iv. The level of background contamination in the excavation zone shall not interfere with the method used to detect releases from the tank.

v. The vapor monitors shall be designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system.

vi. In the UST excavation zone, the site shall be assessed to ensure compliance with the requirements in Clauses A.5.b.i-iv of this Section and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product.

vii. Monitoring wells shall be clearly marked and secured to avoid unauthorized access and tampering.

c. Liquid Monitoring. Testing or monitoring for liquids on the water table shall meet the following requirements.

i. The regulated substance stored shall be immiscible in water and have a specific gravity of less than one.

ii. When an RDD is installed in the tank hold backfill, there shall be water present in the RDD during measurement at least once every 30 days in order to use liquid monitoring. When an RDD is installed in native soil, the distance to the water table shall never be more than 20 feet from the ground surface and shall be present in the RDD during measurement at least once every 30 days, and the hydraulic conductivity of the soil(s) between the UST system and the RDD shall not be less than 0.01 centimeters per second (e.g., the soil should consist of gravels, coarse-to-medium sands, coarse silts, or other permeable materials) in order to use liquid monitoring.

iii. The slotted portion of the RDD shall be designed to prevent migration of soils or the filter pack into the RDD and to allow entry of the regulated substance on the water table into the RDD under both high and low groundwater conditions.

iv. The continuous monitoring devices or manual methods used shall be capable of detecting the presence of at least 1/8 of an inch of free product on top of the water within the RDD.

v. Within and immediately below the excavation zone of the UST system, the site shall be assessed to ensure compliance with the requirements in Clauses A.5.c.i-iii of this Section and to establish the number and positioning of devices that will detect releases from any portion of the tank that routinely contains product.

vi. RDD shall be clearly marked and secured to avoid unauthorized access and tampering.

6. Interstitial Monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed, and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements.

a. For double-walled UST systems, the sampling or testing method used shall be capable of detecting a leak through the inner wall in any portion of the tank that routinely contains product. Interstitial monitoring of double-walled or jacketed tanks shall be conducted either continuously by means of an automatic leak sensing device that signals to the operator the presence of any liquid in the interstitial space, or manually every 30 days by means of a procedure capable of detecting the presence of any liquid in the interstitial space.

b. For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used

shall be capable of detecting a release between the UST system and the secondary barrier, and the following criteria shall be met.

i. The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (at least  $10^{-6}$  centimeters per second for the regulated substance stored) to direct a leak to the monitoring point and permit its detection.

ii. The barrier is compatible with the regulated substance stored so that a leak from the UST system will not cause deterioration of the barrier that would allow a release to pass through undetected.

iii. For cathodically protected tanks, the secondary barrier is installed so that it does not interfere with the proper operation of the cathodic protection system.

iv. The groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days.

v. The site is assessed to ensure that the secondary barrier is always above the water table and not in a 25-year floodplain, unless the barrier and monitoring designs are for use under such conditions.

vi. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

c. Tanks with internally fitted liners shall be equipped with an automated device that can detect a leak between the inner wall of the tank and the liner, and the liner shall be compatible with the substance stored.

#### 7. Statistical Inventory Reconciliation (SIR)

a. Release detection methods based on the application of statistical principles to inventory data similar to those described in LAC 33:XI.701.A.1 shall meet the following requirements:

i. report a quantitative result with a calculated leak rate;

ii. be capable of detecting a leak rate of 0.2 gallons per hour or a release of 150 gallons within 30 days; and

iii. use a threshold that does not exceed one-half the minimum detectable leak rate.

b. The UST system owner or operator shall receive a report from the SIR provider/vendor/software that performs the SIR analysis within the 30-day monitoring period for which the analysis was performed.

8. Other Methods. Any other type of release detection method, or combination of methods, can be used if it meets the following requirements.

a. The release detection method can detect a 0.2-gallon-per-hour leak rate or a release of 150 gallons within 30 days with a probability of detection of at least 0.95 and a probability of false alarm of no greater than 0.05.

b. The release detection method has been approved by the Office of Environmental Assessment on the basis of a demonstration by the owner and operator that the method can detect a release as effectively as any of the methods allowed in Paragraphs 3-8 of this Subsection. In comparing methods, the Office of Environmental Assessment shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator shall comply with any conditions imposed on its use by the Office of Environmental Assessment.

B. Piping. Each method of release detection for piping used to meet the requirements of LAC 33:XI.703.B shall be used in accordance with the following.

1. Automatic Line Leak Detectors. Methods that alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or by triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. A test of the operation of the leak detector shall be conducted at least once every 12 months in accordance with the following:

a. in accordance with the manufacturer's requirements;

b. by simulating a release in order to determine if the system can detect leaks of 3 gallons-per-hour at 10 pounds per square inch line pressure within 1 hour and is fully operational; and

c. tested to ensure that the submersible pump does not run continuously during normal facility operation.

2. Line Tightness Testing. Periodic testing of piping is acceptable only if such testing can detect a 0.1 gallons per hour leak rate at 1.5 times normal operating pressure.

3. Applicable Tank Methods. Any of the methods in Paragraphs A.4-8 of this Section may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances. Line tightness testing conducted at normal operating pressure with an ATG and pressurized line leak detectors, or with statistical inventory reconciliation must meet a 0.08 gallon-per-hour leak rate in order to qualify as an annual line tightness test.

4. Interstitial Monitoring. Interstitial monitoring of double-walled or jacketed piping shall be conducted either continuously by means of an automatic leak sensing device that signals to the operator the presence of any liquid in the interstitial space or sump, or manually every 30 days by means of a procedure capable of detecting the presence of any liquid in the interstitial space or sump.

a. The interstitial space or sump shall be maintained free of water, debris, or anything that could interfere with leak detection capabilities.

b. Subparagraph a of this Paragraph applies only to containment sumps that are used for interstitial monitoring of piping.

c. Sump sensors that are used for interstitial monitoring of piping shall be installed at the lowest part of the containment sump and in a vertical position, unless otherwise specified by the sensor manufacturer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1072 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), LR 34:2120 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2762 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2144 (November 2017), LR 44:1607 (September 2018).

### **§703. Requirements for Use of Release Detection Methods**

#### **A. Requirements for All UST Systems**

1. Owners and operators of all UST systems shall use a method, or combination of the methods, of release detection described in LAC 33:XI.701.

2. The method of release detection used shall also meet the following requirements.

a. The release detection method used shall be capable of detecting a release from any portion of the tank and the connected underground piping that routinely contains product.

b. The release detection system shall be installed and calibrated in accordance with the manufacturer's instructions.

c. The release detection system shall meet the performance requirements in LAC 33:XI.701.A, B, or LAC 33:XI.Chapter 8, as applicable, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer, or in accordance with the third party evaluations, unless otherwise approved by the department. In addition, methods listed in LAC 33:XI.701.A.2, 3, 4, 7, and 8, LAC 33:XI.701.B.1 and 2, and LAC 33:XI.33.Chapter 8 shall be capable of detecting the leak rate or quantity specified for that method in the corresponding Section of LAC 33:XI.701 or LAC 33:XI.Chapter 8 with a probability of detection of at least 0.95 and a probability of false alarm of no greater than 0.05.

d. The release detection system shall be operated and maintained in accordance with the manufacturer's instructions. Beginning September 20, 2021, the release detection method used shall be operated and maintained, and electronic components shall be tested for proper operation, in accordance with manufacturer's instructions, a code of practice developed by a nationally recognized organization or independent testing laboratory listed in LAC 33:XI.599, or requirements developed by the department that are no less protective of human health and the environment than the two options listed above.

i. A test of the proper operation shall be performed at least once every 12 months and, at a minimum, as applicable to the facility, cover the components and criteria listed in LAC 33:XI.703.A.2.d.ii.(a)-(e).

ii. The equipment listed below that fails testing shall be repaired or replaced within 30 days of the failed test date:

(a). automatic tank gauge and other controllers:

(i). test alarm;

(ii). verify configuration; and

(iii).test battery backup;

(b). probes and sensors:

(i). inspect for residual buildup;

(ii). ensure floats move freely;

(iii).ensure shaft is not damaged;

(iv).ensure cables are free of kinks and breaks;

and

(v). test alarm operability and communication with the controller;

(c). automatic line leak detector: test operation to meet criteria in LAC 33:XI.701.B.1;

(d). vacuum pumps and pressure gauges: ensure proper communication with sensors and controller; and/or

(e). hand-held electronic sampling equipment associated with groundwater and vapor monitoring: ensure proper operation.

3. When a release detection method operated in accordance with the performance standards in LAC 33:XI.701.A, B, or LAC 33:XI.Chapter 8 indicates that a release may have occurred, owners and operators shall notify the Office of Environmental Assessment in accordance with LAC 33:XI.707. If more than one method of release detection is conducted on a UST system, and, if any one of these release detection methods indicates that the release may have occurred which cannot be overruled by one of the other methods currently in use, a suspected release shall be reported in accordance with LAC 33:XI.707.

4. The release detection method used shall provide a conclusive result at least once every 30 days. When an inconclusive result is received, the UST owner or operator shall either run another release detection test, where applicable, or conduct an alternate method of release detection in order to obtain a conclusive result for the 30 day monitoring period. If no alternate method of release detection is available, the UST owner or operator may conduct a tank and/or line tightness test in accordance with LAC 33:XI.701.A.3 and/or B.2 within seven days of the end of the 30 day monitoring period in order to satisfy this requirement.

5. Any UST system that cannot apply a method of release detection that complies with the requirements of



LAC 33:XI.701-705 shall complete the closure procedures in LAC 33:XI.Chapter 9. For previously deferred UST systems described in LAC 33:XI.101 and LAC 33:XI.Chapter 8, this requirement is applicable after the effective dates described in LAC 33:XI.101.A.1.b and LAC 33:XI.801.A.

B. Additional Requirements for Petroleum and Motor Fuel UST Systems. In addition to the requirements specified in LAC 33:XI.703.A, owners and operators of petroleum and motor fuel UST systems shall provide release detection for tanks and piping as follows.

1. Tanks. Tanks shall be monitored for releases as follows.

a. Tanks installed on or before December 20, 2008, shall be monitored for releases at least once every 30 days using one of the methods listed in LAC 33:XI.701.A.3-8, except for the following.

i. UST systems that meet the performance standards in LAC 33:XI.303.D or E, and the monthly inventory control requirements in LAC 33:XI.701.A.1 or 2, may use tank tightness testing (conducted in accordance with LAC 33:XI.701.A.3) at least every 5 years until 10 years after the tank was installed. Inventory control and manual tank gauging, conducted in accordance with LAC 33:XI.701.A.1 or 2, in conjunction with tank tightness testing are no longer allowed as release detection methods after December 20, 2018.

ii. Tanks with a capacity of 550 gallons or less and tanks with a capacity of 551 to 1000 gallons that meet the tank diameter criteria in LAC 33:XI.701.A.2 may use manual tank gauging (conducted in accordance with LAC 33:XI.701.A.2).

b. Tanks installed after December 20, 2008, or after the date of the extension granted under LAC 33:XI.303.C.2, shall be monitored for releases at least once every 30 days in accordance with LAC 33:XI.701.A.6.

2. Piping. Underground piping that routinely contains regulated substances shall be monitored for releases in a manner that meets one of the following requirements.

a. Piping installed on or before December 20, 2008, shall meet one of the following.

i. Pressurized Piping. Underground piping that conveys regulated substances under pressure shall:

(a). be equipped with an automatic line leak detector in accordance with LAC 33:XI.701.B.1; and

(b). have a line tightness test conducted every 12 months in accordance with LAC 33:XI.701.B.2, or have monthly monitoring conducted in accordance with LAC 33:XI.701.B.3.

ii. Suction Piping. Underground piping that conveys regulated substances under suction shall either have a line tightness test conducted at least every three years and in accordance with LAC 33:XI.701.B.2, or use a monthly monitoring method conducted in accordance with LAC

33:XI.701.B.3. No release detection is required for suction piping designed and constructed to meet the following standards:

(a). the below-grade piping operates at less than atmospheric pressure;

(b). the below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

(c). only one check valve is included in each suction line;

(d). the check valve is located directly below and as close as practical to the suction pump; and

(e). a method is used that allows compliance with Clauses B.2.b.ii-iv of this Section to be readily determined and verified.

b. Piping installed or replaced after December 20, 2008, or after the extension granted under LAC 33:XI.303.C.1 and 2, shall meet one of the following.

i. Pressurized piping shall be monitored for releases at least once every 30 days in accordance with LAC 33:XI.701.B.4 and be equipped with an automatic line leak detector in accordance with LAC 33:XI.701.B.1.

ii. Suction piping shall be monitored for releases at least once every 30 days in accordance with LAC 33:XI.701.B.4. No release detection is required for suction piping that meets the requirements of Subclauses a.ii.(a).-(e). of this Paragraph.

C. Additional Requirements for Hazardous Substance UST Systems. In addition to the requirements of LAC 33:XI.703.A, owners and operators of hazardous substance UST systems shall provide containment that meets the following requirements and monitor the tanks for systems using LAC 33:XI.701.A.6 and the piping for systems using 701.B.4 at least once every 30 days.

1. Secondary containment systems shall be designed, constructed, and installed in accordance with LAC 33:V.4437 to:

a. contain regulated substances leaked from the primary containment until they are detected and removed;

b. prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

c. be checked for evidence of a release at least once every 30 days.

2. Double-walled tanks shall be designed, constructed, and installed to:

a. contain a release from any portion of the inner tank within the outer wall; and

b. detect the failure of the inner wall.

3. External liners (including vaults) shall be designed, constructed, and installed to:

a. contain 100 percent of the capacity of the largest tank within the boundary of the external liner;

b. prevent precipitation or groundwater intrusion from interfering with the ability to contain or detect a release of regulated substances; and

c. surround the tank completely (i.e., the liner shall be capable of preventing lateral as well as vertical migration of regulated substances).

4. Underground piping shall be equipped with secondary containment that satisfies the requirements of this Section (e.g., trench liners, jacketing of double-walled pipe). In addition, underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector, in accordance with LAC 33:XI.701.B.1.

5. For hazardous substance UST systems installed on or before September 20, 2018, other methods of release detection may be used if the owners and operators:

a. demonstrate to the department's satisfaction that the alternate method can detect a release of the stored substance as effectively as any of the methods allowed in LAC 33:XI.701.A.2-7 can detect a release of petroleum;

b. provide information to the department on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the UST site; and

c. obtain approval from the Office of Environmental Assessment to use the alternate release detection method before the installation and operation of the new UST system.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), LR 34:1400 (July 2008), LR 34:2120 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2762 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2144 (November 2017), LR 44:1609 (September 2018).

#### **§705. Release Detection Recordkeeping**

A. All UST system owners and operators shall maintain records in accordance with LAC 33:XI.509 demonstrating compliance with all applicable requirements of LAC 33:XI.701-703 and LAC 33:XI.803.D. These records shall include the following.

1. All written performance claims pertaining to any release detection system used and documentation of the manner in which these claims have been justified or tested by the equipment manufacturer, installer, or third-party independent testing laboratory must be maintained

throughout the operational life of the release detection system. Beginning no later than September 20, 2021, records of the site assessments required under LAC 33:XI.701.A.5.b.vi and LAC 33:XI.701.A.5.c.v shall be maintained as long as the methods are used. Records of site assessments developed after September 20, 2018, shall be signed by a professional engineer or professional geologist, or equivalent licensed professional with experience in environmental engineering, hydrogeology, or other relevant technical discipline acceptable to the department.

a. The department may waive the site assessment requirement for UST systems that were conducting vapor or groundwater monitoring prior to September 20, 2018, if the applicable requirements of LAC 33:XI.701.A.5.a, b, and c were verified during a compliance evaluation inspection. In these cases, the department will provide a written waiver to the facility that shall be maintained for as long as the methods are used.

2. The results of any sampling, testing, or monitoring shall be maintained for at least three years, except that the results of tank tightness testing conducted in accordance with LAC 33:XI.701.A.3 when used in combination with inventory control and manual tank gauging as a release detection method shall be retained until the next test is conducted, and shall contain, at a minimum, the following information.

##### **a. Inventory Control**

##### **i. Inventory control records shall include:**

(a). the tank identifier;

(b). the month and year of the report;

(c). the date of the monthly water check and the measured water level in inches;

(d). the daily start stick inventory in inches and gallons, gallons delivered, gallons pumped, end stick inventory in inches and gallons, the over and short measurements, and the initials of the person conducting the measurements;

(e). the total gallons pumped for the month;

(f). cumulative over and short calculation for the month;

(g). the monthly leak check amount;

(h). the monthly leak check amount plus 130; and

(i). the monthly leak check result of pass/fail or yes/no.

##### **b. Manual Tank Gauging**

##### **i. Manual tank gauging records shall include:**

(a). the tank identifier;

(b). the month, day and time of the initial test;

(c). the first, second and average initial readings;

- (d). the initial test gallons;
- (e). the month, day and time of the end test;
- (f). the first, second and average end readings;
- (g). the end test gallons;
- (h). the change in tank volume calculated weekly and monthly; and
- (i). whether the tank test passes or not weekly and monthly.

c. Tank Tightness Testing. Tank tightness test reports shall include the date of the test, the tank identifier, a qualitative result statement, a calculated leak rate, and any other information needed to verify compliance with LAC 33:XI.703.A.2.c as applicable to the equipment and method used. Raw data generated for each tank tightness test shall be provided to the department upon request.

d. Automatic Tank Gauging (ATG)

- i. ATG test reports shall include:
  - (a). the time, date, or period covered for the test;
  - (b). the tank and/or piping identifier;
  - (c). a qualitative result of pass, fail, inconclusive, or alarm code where applicable;
  - (d). a quantitative result with a calculated leak rate; and
  - (e). any other information needed to verify compliance with LAC 33:XI.703.A.2.c as applicable to the equipment and method used.

e. Vapor Monitoring with RDD

- i. Vapor monitoring RDD records shall include:
  - (a). the date the analysis was conducted;
  - (b). the well identifiers;
  - (c). the concentration measured in each well in parts per million;
  - (d). a statement or signifier if any of the measured concentrations represents a suspected release (any significant increase in concentration above background); and
  - (e). any other information needed to verify compliance with LAC 33:XI.703.A.2.c as applicable to the equipment and method used.

f. Liquid Monitoring with RDD

- i. Liquid monitoring RDD records shall include:
  - (a). the date the wells are checked;
  - (b). the well identifiers;
  - (c). the amount of product measured in each well;
  - (d). the depth to the water surface in each well; and

(e). any other information needed to verify compliance with LAC 33:XI.703.A.2.c as applicable to the equipment and method used.

g. Tank Interstitial Monitoring (IM)

i. Tank IM records shall include:

- (a). the date of the test;
- (b). the tank identifier;
- (c). a qualitative result statement (i.e., pass or fail, liquid, product or water detected, sensor normal message, dry space, alarm code when applicable, etc.);
- (d). a qualitative result (when applicable); and
- (e). any other information needed to verify compliance with LAC 33:XI.703.A.2.c as applicable to the equipment and method used.

h. Statistical Inventory Reconciliation (SIR)

i. SIR records shall include:

- (a). the month and year of the test;
- (b). the name of the SIR provider/vendor/software and the name and version of the SIR method used for analysis;
- (c). the name and address of the facility;
- (d). a description of the UST system;
- (e). a quantitative result of the leak threshold, the minimum detectable leak rate, and the calculated leak rate for each UST system monitored;
- (f). a qualitative statement of pass, fail, or inconclusive for each UST system monitored; and
- (g). any other information needed to verify compliance with LAC 33:XI.703.A.2.c as applicable to the equipment and method used. (Monthly raw data shall be provided to the department upon request.)

i. Other Method. Any specific records required by the department upon approval of the method, any records needed to demonstrate that the method meets the performance requirements outlined in ALC 33:XI.701.A.8.a, and any other information needed to verify compliance with LAC 33:XI.703.A.2.c as applicable to the equipment and method used.

j. Line Leak Detector (LLD)

i. LLD test results shall include:

- (a). the date of the test;
- (b). the LLD identifier;
- (c). a qualitative result statement;
- (d). a calculated leak rate;
- (e). a qualitative statement regarding whether the submersible turbine pump is running continuously or not;

(f). any other information needed to verify compliance with LAC 33:XI.703.A.2.c as applicable to the equipment and method used; and

(g). raw data generated for each line LLD test shall be provided to the department upon request.

k. Line Tightness Test (LTT)

i. LTT results shall include:

- (a). the date of the test;
- (b). the line identifier;
- (c). a qualitative result statement;
- (d). a calculated leak rate;

(e). any other information needed to verify compliance with LAC 33:XI.703.A.2.c as applicable to the equipment and method used; and

(f). raw data generated for each LTT shall be provided to the department upon request.

l. Piping Interstitial Monitoring (IM)

i. Piping IM records shall include:

- (a). the date of the test;
- (b). the line identifier;
- (c). a qualitative statement (i.e., pass or fail, liquid, product or water detected, sensor normal message, dry space, alarm code when applicable, etc.);
- (d). a qualitative result, when applicable; and

(e). any other information needed to verify compliance with LAC 33:XI.703.A.2.c as applicable to the equipment and method used.

3. Written documentation of all calibration, maintenance, and repair of release detection equipment used on-site shall be maintained for at least three years after the servicing work is completed. Any schedules of required calibration and maintenance provided by the manufacturer of the release detection equipment shall be retained for five years from the date of installation.

4. The results of annual operation tests conducted in accordance with LAC 33:XI.703.A.2.d shall be maintained for at least three years. At a minimum, the results shall list each component tested, the date each component was tested, indicate whether each component tested meets the criteria in LAC 33:XI.703.A.2.d or needs to have action taken, and a description of any actions taken to correct an issue.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1611 (September 2018).

## §707. Reporting of Suspected Releases

A. All owners, operators, employees, agents, contractors, or assigns having knowledge of any of the conditions listed below shall notify the Office of Environmental Assessment in the manner provided in LAC 33:I.3923 within 24 hours after becoming aware of the occurrence or, if they have knowledge of an emergency condition, shall report it immediately in accordance with LAC 33:I.Chapter 39. Owners and operators of UST systems shall follow the procedures specified in LAC 33:XI.711 after discovery of any of the following conditions.

1. Released regulated substances are discovered at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, UST system backfill, basements, sewer and utility lines, or nearby surface water).

2. Unusual operating conditions are observed (such as the erratic behavior of product-dispensing equipment caused by line leak detector restricting product flow, the sudden loss of product from the UST system, an unexplained presence of water in the tank, or liquid (e.g., product or water) in the interstitial space of secondarily contained systems), unless:

a. the system equipment or component is found not to be releasing regulated substances to the environment;

b. any defective equipment or component is immediately repaired or replaced;

c. for secondarily contained systems conducting interstitial monitoring:

i. except as provided for in LAC 33:XI.701.A.6.b.iv, any water in the interstitial space not used as part of the interstitial monitoring method (e.g., brine filled) is immediately removed; or

ii. if it is verified within 24 hours that the water is from surface water intrusion (e.g., the water intrusion occurred during a heavy rain event). Water shall be removed prior to the next scheduled release detection monitoring event (within 30 days or less).

3. Monitoring results, including investigation of alarms from a release detection method required under LAC 33:XI.703.B and C and LAC 33:XI.803.D indicate that a release may have occurred, unless:

a. the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and additional monitoring conducted within 24 hours does not confirm the initial result;

b. the leak is contained in the secondary containment and:

i. any product resulting from dispenser leaks or spills that is contained in secondary containment sumps is immediately removed upon discovery;

ii. except as provided for in LAC 33:XI.701.A.6.b.iv, any water in the interstitial space not used as part of the interstitial monitoring method (e.g., brine filled) is immediately removed;

iii. any defective equipment or component is immediately repaired or replaced; or

iv. it is verified within 24 hours that the liquid is from surface water intrusion (e.g., the water intrusion happened during a heavy rain event). Water shall be removed prior to the next scheduled release detection monitoring event (within 30 days or less);

c. in the case of inventory control, described in LAC 33:XI.701.A.1, a second month of data does not confirm the initial result; or

d. the alarm was investigated and determined to be a nonrelease event (e.g., from a power surge or caused by filling a tank during release detection testing).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:1677 (August 2004), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:74 (January 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1613 (September 2018).

#### **§709. Investigation Due to Off-Site Impacts**

A. When the department requires it, owners and operators of UST systems shall follow the procedures in LAC 33:XI.711 to determine if the UST system is the source of off-site impacts. These impacts include the discovery of regulated substances in an off-site location (such as the presence of free product or vapors in soils, basements, sewer and utility lines, or nearby surface and drinking waters).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1614 (September 2018).

#### **§711. Release Investigation and Confirmation Steps**

A. Unless corrective action is initiated in accordance with LAC 33:XI.715, owners and operators shall immediately investigate and confirm all suspected releases of regulated substances requiring reporting under LAC 33:XI.707, using either the following steps or another procedure approved in writing by the department, within the timeframe specified in the following steps.

##### **1. System Test**

a. Within seven days after obtaining knowledge of any of the conditions listed in LAC 33:XI.707 that a release is suspected or requires reporting, or another reasonable period of time determined by the department in writing, owners and operators shall conduct tests according to the requirements for tightness testing in LAC 33:XI.701.A.3 and

B.2, or as appropriate, secondary containment testing described in LAC 33:XI.507.A.5.

##### **i. The test shall determine whether:**

(a). a leak exists in that portion of the tank that routinely contains product or the attached delivery piping or both; or

(b). a breach of either wall of the secondary containment has occurred.

ii. If the system test confirms a leak into the interstice or a release, owners and operators shall repair, replace, upgrade, or permanently close the UST system. In addition, owners and operators shall begin corrective action in accordance with LAC 33:XI.715 if the test results for the system, tank, or delivery piping indicate that a release exists. Failed UST systems may be placed into temporary closure if all of the following conditions are met:

(a). failed tanks or their associated piping shall be in the same tank hold as other active or temporarily closed tanks;

(b). site check and/or corrective actions as described in LAC 33:XI.711.A.2 and/or 715.C.1.e shall be conducted;

(c). all product has been removed from the tank and the tank has been cleaned of any residual product and bottom sludge;

(d). the affected tank fill ports are padlocked;

(e). all product piping is disconnected from the tank; and

(f). the tank is prohibited from delivery (red tagged) by the department until the failed tank or piping is repaired, replaced, or permanently closed.

iii. Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a release exists and if environmental contamination is not the basis for suspecting a release.

iv. Owners and operators shall either conduct a site check as described in Paragraph 2 of this Subsection or begin corrective action in accordance with LAC 33:XI.715 if the test results for the system, tank, and delivery piping do not indicate that a release exists, but environmental contamination is the basis for suspecting a release.

2. **Site Check.** Owners and operators shall measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations, and measurement methods, owners and operators shall consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of groundwater, and other factors appropriate for identifying the presence and source of the release. Within 20 days after the suspected release notification, or another reasonable period of time determined by the department in writing, owners and operators shall submit a report to the Office of Environmental Assessment

summarizing the results of the site check and any resulting information or data. They shall then proceed as follows.

a. If the test results for the excavation zone or the UST site indicate that a release has occurred, owners and operators shall begin corrective action in accordance with LAC 33:XI.715.

b. If the test results for the excavation zone or the UST site do not indicate that a release has occurred, further investigation is not required.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1614 (September 2018).

### **§713. Reporting and Cleanup of Spills and Overfills**

A. Owners and operators of UST systems shall immediately stop ongoing aboveground releases to the environment and shall contain and immediately clean up all spills and overfills. Owners and operators of UST systems shall report and begin corrective action in accordance with LAC 33:XI.715 in the following cases.

1. Any spill or overfill of petroleum or motor fuel that has resulted in a release to the environment that exceeds 25 gallons, that causes a sheen on nearby surface water, or results in an *emergency condition*, as defined in LAC 33:I.3905, shall be reported in accordance with LAC 33:I.Chapter 39 immediately, but in no case later than one hour, regardless of the amount released.

2. Any spill or overfill of a hazardous substance that has resulted in a release to the environment that equals or exceeds the reportable quantity for that substance in LAC 33:I.3931 or results in an *emergency condition*, as defined in LAC 33:I.3905, shall be reported in accordance with LAC 33:I.Chapter 39 immediately, but in no case later than one hour, regardless of the amount released. A release of a hazardous substance equal to or in excess of its reportable quantity shall also be reported immediately (rather than within 24 hours) to the National Response Center, under sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to appropriate authorities under title III of the Superfund Amendments and Reauthorization Act of 1986 (40 CFR 355.40).

B. Follow-up written reports shall be submitted within seven calendar days, as required by LAC 33:I.3925. The written report shall satisfy the requirements of LAC 33:I.3925.B and C.

C. Owners and operators of UST systems shall contain and immediately clean up a spill or overfill of petroleum or motor fuel that is less than 25 gallons and a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, owners and operators shall immediately notify the

department in the manner provided in LAC 33:I.3923 and begin corrective action in accordance with LAC 33:XI.715.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:1677 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 36:1241 (June 2010), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1614 (September 2018).

### **§715. Release Response and Corrective Action for UST Systems Containing Petroleum, Motor Fuel, or Hazardous Substances**

A. Applicability. Owners and operators of petroleum, motor fuel, or hazardous substance UST systems shall, in response to a confirmed release from the UST system, comply with the requirements of this Section except for USTs excluded under LAC 33:XI.101.B and UST systems subject to the department's Hazardous Waste Regulations. Investigations and corrective actions required by this Section shall comply with LAC 33:I.Chapter 13, Risk Evaluation/Corrective Action Program.

B. Initial Response. When a release is confirmed in accordance with LAC 33:XI.711 or after a release from the UST system is identified in any other manner, owners and operators shall take the following initial response actions within 24 hours of the release.

1. Report the release to the department in accordance with LAC 33:I.3923.

2. Take immediate action to prevent any further release of the regulated substance into the environment.

3. Identify and mitigate fire, explosion, and vapor hazards.

#### **C. Initial Abatement Measures and Site Check**

1. Unless directed to do otherwise by the department, owners and operators shall perform the following abatement measures.

a. Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment.

b. Visually inspect any aboveground releases or exposed belowground releases, and prevent further migration of the released substance into surrounding soils and groundwater.

c. Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that has migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements).

d. Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation,

site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator shall comply with applicable state and local regulations and requirements.

e. Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with the site check required by LAC 33:XI.711.A.2 or the closure site assessment required by LAC 33:XI.907.A. In selecting sample types, sample locations, and measurement methods, the owner and operator shall consider the nature of the stored substance, the type of backfill, depth to groundwater, and other factors as appropriate for identifying the presence and source of the release.

f. Investigate to determine the possible presence of free product, and begin removal of free product as soon as practicable and in accordance with LAC 33:XI.715.E.

g. If the UST system will not be permanently closed, the requirements outlined in LAC 33:XI.711.A.1 shall still be met.

2. Within 20 days after release confirmation or another reasonable period of time determined by the department in writing, owners and operators shall submit a report to the Office of Environmental Assessment summarizing the initial abatement steps taken under Paragraph C.1 of this Section and any resulting information or data.

#### D. Initial Site Characterization

1. Unless directed to do otherwise by the department, owners and operators shall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial response and abatement measures described in Subsection A-C of this Section. This information shall include, but is not necessarily limited to the following:

a. data on the nature and estimated quantity of release;

b. data from available sources and/or site investigations concerning surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions, and land use;

c. results of the site check required under LAC 33:XI.715.C.1.e;

d. results of the free product investigations required under LAC 33:XI.715.C.1.f, to be used by owners and operators to determine whether free product shall be recovered under Subsection E of this Section; and

e. any other tests or investigations the department deems necessary to protect human health, the environment, and more particularly, the groundwaters and aquifers of the state.

2. Within 60 days of release confirmation or another reasonable period of time determined by the department in writing, owners and operators shall submit the information collected in compliance with Paragraph 1 of this Subsection to the Office of Environmental Assessment in a manner that demonstrates its applicability and technical adequacy, or in a format and according to the schedule required by the department.

E. Free Product Removal. At sites where investigations under Subparagraph C.1.f of this Section indicate the presence of free product, owners and operators shall remove free product to the maximum extent practicable as determined by the Office of Environmental Assessment, while continuing, as necessary, any actions initiated under Subsections B-D of this Section, or preparing for actions required under Subsections F-G of this Section. To meet the requirements of this Subsection, owners and operators shall take the following actions.

1. Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges, or disposes of recovery by-products in compliance with applicable local, state, and federal regulations.

2. Use abatement of free product migration as a minimum objective for the design of the free product removal system.

3. Handle any flammable products in a safe and competent manner to prevent fires or explosions.

4. Unless directed to do otherwise by the department, prepare and submit to the Office of Environmental Assessment, within 45 days after confirming a release, a free product removal report that provides at least the following information:

a. the name(s) of the person(s) responsible for implementing the free product removal measures;

b. the estimated quantity, type, and thickness of free product observed or measured in wells, boreholes, and excavations;

c. the type of free product recovery system used;

d. whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;

e. the type of treatment applied to, and the effluent quality expected from, any discharge;

f. evidence that all permits or variances necessary for any discharges or emissions have been obtained; and

g. the disposition of the recovered free product.

#### F. Investigations for Soil and Groundwater Cleanup

1. To determine the full extent and location of soils contaminated by the release and the presence and concentrations of dissolved product contamination in the

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groundwater, owners and operators shall conduct investigations of the release, the release site, and the surrounding area possibly affected by the release under any of the following conditions:

a. evidence exists that the release has affected water wells (i.e., as found during release confirmation or previous corrective action measures);

b. free product needs to be recovered for compliance with LAC 33:XI.715.E;

c. evidence exists that contaminated soils may be in contact with groundwater (i.e., as found during conduct of the initial response measures or investigations required under LAC 33:XI.715.A-E);

d. the department requests an investigation on the basis of potential effects of contaminated soil or groundwater on nearby surface water and groundwater resources. Groundwater monitoring wells installed pursuant to this requirement shall be installed in accordance with all regulations administered by the Louisiana Department of Transportation and Development, or its successor agency.

2. Owners and operators shall submit the information collected under Paragraph 1 of this Subsection as soon as practicable or in accordance with a schedule established by the department.

### G. Corrective Action Plan

1. At any point after reviewing the information submitted in compliance with Subsections B-D of this Section, the department may require owners and operators to submit additional information or to develop and submit a corrective action plan and schedule for responding to contaminated soils and groundwater. If a plan is required, owners and operators shall submit the plan according to a schedule and format established by the department. Alternatively, owners and operators, after fulfilling the requirements of Subsections B-D of this Section, may choose to submit a corrective action plan and schedule for responding to contaminated soil and groundwater. In either case, owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the department, and shall modify their plans as necessary to meet this standard.

2. The department will approve the corrective action plan and schedule only after ensuring that their implementation will adequately protect human health, safety, and the environment. In making this determination, the department's considerations shall include the following, as appropriate:

a. the physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;

b. the hydrogeologic characteristics of the facility and the surrounding area;

c. the proximity, quality, and current and future uses of nearby surface water and groundwater;

d. the potential effects of residual contamination on nearby surface water and groundwater;

e. an exposure assessment;

f. documentation of compliance with Paragraph H.1 of this Section; and

g. any information assembled in compliance with this Chapter.

3. Upon approval of the corrective action plan and schedule or as directed by the department, owners and operators shall implement the plan, including modifications to the plan made by the department. They shall monitor, evaluate, and report the results of implementing the plan in accordance with the approved schedule in a format established by the department.

4. Owners and operators may, in the interest of minimizing environmental contamination and promoting more effective cleanup, begin cleanup of soil and groundwater before the corrective action plan is approved, provided that they:

a. notify the Office of Environmental Assessment of their intention to begin cleanup;

b. comply with any conditions the department imposes, including halting cleanup or mitigating adverse consequences from cleanup activities; and

c. incorporate these self-initiated cleanup measures in the corrective action plan submitted to the department for approval.

### H. Public Participation

1. For each confirmed release that requires a corrective action plan, the responsible owner or operator shall provide notice to the public by means designed to reach those members of the public directly affected by the release and the planned corrective action. This notice may include, but is not limited to, public notice in local newspapers, block advertisements, public service announcements, letters to individual households, or personal contacts.

2. The department shall ensure that site release information and decisions concerning the corrective action plan are made available to the public for inspection upon request.

3. Before approving a corrective action plan, the department may hold a public meeting to consider comments on the proposed corrective action plan if sufficient public interest exists, or for any other reason.

4. The department shall give public notice that complies with Paragraph 1 of this Subsection if implementation of an approved corrective action plan does not achieve the established cleanup criteria in the plan, and the department is considering termination of that plan.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,



Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of the Secretary, LR 24:2253 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:1677 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2762 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2144 (November 2017), LR 44:1615 (September 2018).

## **Chapter 8. UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems**

### **§801. General Requirements**

#### **A. Implementation of Requirements**

1. Owners and operators shall comply with the requirements of this Chapter for UST systems with field-constructed tanks and airport hydrant systems as follows.

a. For UST systems installed on or before September 20, 2018, the requirements are effective according the following schedule:

i. upgrading UST systems, general operating requirements, and operator training on or before September 20, 2021;

ii. release detection on or before September 20, 2021; and

iii. release reporting, response investigation, closure, financial responsibility and notification, except as provided in Subsection B of this Section, on or before September 20, 2018.

b. For UST systems installed after September 20, 2018, the requirements apply at installation.

B. Not later than September 20, 2021, all owners of previously deferred UST systems shall submit a one-time notice of tank existence to the department, using the UST-REG form. Owners and operators of UST systems in use as of September 20, 2018, shall demonstrate financial responsibility at the time of submission of the notification form.

C. Except as provided in LAC 33:XI.803, owners and operators shall comply with the requirements of LAC 33:XI *Underground Storage Tanks*.

D. In addition to the codes of practice listed in LAC 33:XI.599, owners and operators may use the military construction criteria, (e.g., United Facilities Criteria (UFC) 3-460-01, *Petroleum Fuel Facilities*) when designing, constructing, and installing airport hydrant systems and UST systems with field-constructed tanks.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1616 (September 2018).

### **§803. Additions, Exceptions, and Alternatives for UST Systems with Field-Constructed Tanks and Airport Hydrant Systems**

A. Exceptions to Piping Secondary Containment Requirements. Owners and operators may use single walled piping when installing or replacing piping associated with UST systems with field-constructed tanks greater than 50,000 gallons and piping associated with airport hydrant systems. Piping associated with UST systems with field-constructed tanks less than or equal to 50,000 gallons not part of an airport hydrant system shall meet the secondary containment requirements when installed or replaced.

B. Upgrade Requirements. Not later than September 20, 2021, airport hydrant systems and UST systems with field-constructed tanks where installation commenced on or before September 20, 2018 shall meet the following requirements or be permanently closed in accordance with LAC 33:XI.Chapter 9.

#### **1. Corrosion Protection**

a. UST system components that routinely contain regulated substances and that are in contact with soil, backfill, or water shall meet one of the following:

i. except as provided in Paragraph A of this Section, the new UST system performance standards for tanks in LAC 33:XI.303.D.a and for piping in LAC 33:XI.303.D.2; or

ii. be constructed of metal and cathodically protected according to a code of practice developed by a nationally recognized organization or independent testing laboratory and meet the following:

(a). cathodic protection shall meet the requirements of LAC 33:XI.303.D.1.b.ii, iii, and iv for tanks and LAC 33:XI.303.D.2.b.ii, iii, and iv for piping; and

(b). tanks greater than 10 years old without cathodic protection shall be assessed to ensure that the tank is structurally free of corrosion holes prior to adding cathodic protection. The assessment shall be by internal inspection or another method determined by the department to adequately assess the tank for structural soundness and corrosion holes.

2. Spill and Overfill Prevention Equipment. To prevent spilling and overfilling associated with product transfers to the UST system, all UST systems with field-constructed tanks and airport hydrant systems shall comply with the new UST system spill and overfill prevention equipment requirements specified in LAC 33:XI.303.D.3.

#### **C. Walkthrough Inspections**

1. In addition to the walkthrough inspection requirements in LAC 33:XI.513, owners and operators shall inspect the following additional areas for airport hydrant systems at least once every 30 days if confined space entry according to the Occupational Safety and Health Administration (see 29 CFR 1910) is not required or at least once every 12 months if confined space entry is required and

keep documentation of the inspection according to LAC 33:XI.513.B:

- a. hydrant pits—visually check for any damage, remove any liquid or debris, and check for any leaks;
- b. hydrant piping vaults—check for any piping leaks.

D. Release Detection

1. Owners and operators of UST systems with field-constructed tanks and airport hydrant systems shall begin meeting the release detection requirements described in this Chapter not later than September 20, 2021.

a. Methods of Release Detection for Field-Constructed Tanks

i. Owners and operators of field-constructed tanks with a capacity of less than or equal to 50,000 gallons shall meet the requirements in LAC 33:XI.701-705 (except 701.A.5.b and 701.A.5.c shall be combined with inventory control as stated below) or use one or a combination of the following alternative methods of release detection:

(a). conduct an annual tank tightness test that can detect a 0.5 gallon per hour leak rate;

(b). use an automatic tank gauging system to perform release detection at least once every 30 days that can detect a leak rate less than or equal to one gallon per hour. The method shall be combined with a tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least once every three years;

(c). use an automatic tank gauging system to perform release detection at least once every 30 days that can detect a leak rate less than or equal to two gallons per hour. This method shall be combined with a tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least once every two years;

(d). perform vapor monitoring conducted in accordance with LAC 33:XI.701.A.5.b for a tracer compound placed in the tank system capable of detecting a 0.1 gallon per hour leak rate at least once every two years;

(e). perform inventory control conducted in accordance with *Department of Defense Directive 4140.25; ATA Airport Fuel Facility Operations and Maintenance Guidance Manual*; or equivalent procedures at least once every 30 days that can detect a leak equal to or less than 0.5 percent of flow-through and:

(i). perform a tank tightness test that can detect a 0.5 gallon per hour leak rate at least once every two years; or

(ii). perform vapor monitoring or groundwater monitoring conducted in accordance with LAC 33:XI.701.A.5.b and c, respectively, for the stored regulated substance at least once every 30 days;

(f). another method approved by the department may be used if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in Subparagraphs D.1.a.i.(a).–D.1.a.i.(e). of

this Section. In comparing methods, the department shall consider the size of release that the method can detect and the frequency and reliability of detection.

b. Methods of Release Detection for Piping. Owners and operators of underground piping associated with field-constructed tanks less than or equal to 50,000 gallons shall meet the release detection requirements in LAC 33:XI.Chapter

7. Owners and operators of underground piping associated with airport hydrant systems and field-constructed tanks greater than 50,000 gallons shall follow either the requirements of LAC 33:XI.Chapter 7 (except LAC 33:XI.701.A.5.b and c shall be combined with inventory control as stated below) or use one or a combination of the following alternative methods of release detection:

i. perform semiannual (once every six months) or annual (once every 12 months) line tightness testing that meets the following requirements:

(a). line tightness test at or above the piping operating pressure in accordance with the following table;

Maximum Leak Detection Rate Per Test Section Volume		
Test Section Volume (gallons)	Semiannual Test (leak detection rate not to exceed gallons per hour)	Annual Test (leak detection rate not to exceed gallons per hour)
<50,000	1.0	0.5
≥50,000 to <75,000	1.5	0.75
≥75,000 to <100,000	2.0	1.0
≥100,000	3.0	1.5

(b). piping segment volumes greater than 100,000 gallons not capable of meeting the maximum 3 gallons per hour leak rate for the semiannual test may be tested at a leak rate up to 6 gallons per hour according to the following schedule:

(i). first test, not later than September 20, 2021, may use up to a 6 gph leak rate;

(ii). second test, between September 20, 2021, and September 20, 2024, may use up to a 6 gph leak rate;

(iii). third test, between September 20, 2024, and September 20, 2025, shall use 3 gph leak rate;

(iv). subsequent tests, after September 20, 2025, begin using semiannual or annual line tightness testing according to the maximum leak rate per test section volume table above;

ii. perform vapor monitoring conducted in accordance with LAC 33:XI.701.A.5.b for a tracer compound placed in the tank system capable of detecting a 0.1 gallon per hour leak rate at least once every two years;

iii. perform inventory control conducted in accordance with *Department of Defense Directive 4140.25; ATA Fuel Facility Operations and Maintenance Guidance Manual*, or equivalent procedures at least once every 30

days that can detect a leak equal to or less than 0.5 percent of flow-through, and perform:

(a). a line tightness test conducted in accordance with Paragraph D 2.a of this Section using the leak rates for the semiannual test at least once every two years; or

(b). vapor monitoring or groundwater monitoring conducted in accordance with LAC 33:XI.701.A.5.b and c, respectively, for the stored regulated substance at least once every 30 days;

iv. another method approved by the department may be used if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in Paragraphs D.1.b.i–D.1.b.iii of this Section. In comparing methods, the department shall consider the size of release that the method can detect and the frequency and reliability of detection.

c. Recordkeeping for Release Detection. Owners and operators shall maintain release detection records according to the recordkeeping requirements in LAC 33:XI.705.

E. Applicability of Closure Requirements for Previously Closed UST Systems. When directed by the department, the owner and operator of a UST system with field-constructed tanks or airport hydrant systems permanently closed before September 20, 2018, shall assess the excavation zone and close the UST system in accordance with LAC 33:XI.905 and 907 if releases from the UST system may, in the judgement of the department, pose a current or potential threat to human health and the environment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1617 (September 2018).

## Chapter 9. Out-of-Service UST Systems and Closure

### §901. Applicability to Previously Closed UST Systems

A. The owner and operator of a UST system permanently closed before July 20, 1990, shall assess the excavation zone and close the UST system in accordance with this Chapter if directed to do so by the department. The department shall direct that such closure be undertaken if releases from the UST may, in the judgment of the department, pose a current or potential threat to human health and the environment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1618 (September 2018).

### §903. Temporary Closure

A. When a UST system is temporarily closed, owners and operators shall continue operation and maintenance of corrosion protection in accordance with LAC 33:XI.303 and 503, regardless of the amount of product stored in the UST system. The requirements of this Section apply to all tanks, piping, metal flexible hoses, and submersible turbine pumps.

1. Impressed current systems on temporarily closed UST systems shall be operated continuously to provide corrosion protection to the metal components of external portions of the UST system that are in contact with soil, backfill, or water, and shall be tested every three years in order to determine whether cathodic protection is adequate, in accordance with LAC 33:XI.503.A.2.

a. If an impressed current system has been inoperative for more than six months or if the impressed current system has not been repaired within nine months after failing a corrosion protection test, the UST owner shall either:

i. have the corrosion protection system repaired, retested, and recommissioned under the supervision of a corrosion expert within 90 days; or

ii. permanently close the UST system in accordance with LAC 33:XI.905 and 907.

2. Impressed current system rectifiers on temporarily closed UST systems shall be checked every 60 days to ensure that the equipment is operating properly, in accordance with LAC 33:XI.503.A.3.

3. Galvanic systems (e.g., anodes) on temporarily closed UST systems shall be tested every three years, in accordance with LAC 33:XI.503.A.2.

a. If the galvanic system is not tested within one year of the test due date, or if a galvanic system is not repaired within one year of failing a corrosion protection test, the UST system shall be permanently closed in accordance with LAC 33:XI.905 and 907.

4. The internal liners of internally lined underground storage tanks that are in temporary closure shall be inspected within 10 years after lining, and every five years thereafter, in accordance with LAC 33:XI.303.E.3.a.

a. If the internal liner is no longer performing in accordance with the original design specifications and cannot be repaired in accordance with a code of practice developed by a nationally-recognized organization or independent testing laboratory, or if the internal liner is not inspected within one year of the inspection due date, then the lined tank shall be permanently closed in accordance with LAC 33:XI.905 and 907.

5. Records of corrosion protection operation and maintenance shall be maintained in accordance with LAC 33:XI.503.B and 509.B.2.

B. When a UST system is temporarily closed, owners and operators shall maintain release detection in accordance with LAC 33:XI.701-705 and LAC 33:XI.Chapter 8. If a

release is suspected or confirmed, the UST owner or operator shall comply with LAC 33:XI.707-715. Release detection and the release detection operation and maintenance testing and inspections listed in LAC 33:XI.511, 513, and 703.A.2.d are not required as long as the UST system is empty. A UST system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (1 inch) of product or 0.3 percent by weight of the total capacity of the UST system, whichever is less, remains in the UST system. In addition, spill and overfill operation and maintenance testing and inspections listed in LAC 33:XI.511 is not required.

C. When a UST system is temporarily closed for three months or more, owners and operators shall also comply with the following requirements:

1. leave vent lines open and functioning;
2. cap and secure all other lines, pumps, manways, and ancillary equipment; and
3. submit a completed copy of the UST-REG form to the department, indicating the date that the UST system was temporarily closed.

D. When a UST system is temporarily closed for more than six months, owners and operators shall permanently close the UST system if it does not meet either the performance standards in LAC 33:XI.303.B, C, or D for new UST systems or the upgrading requirements in LAC 33:XI.303.E.3-7, except that the spill and overfill equipment requirements do not have to be met.

E. When all of the UST systems located in the same tank hold at a facility are temporarily closed for more than 24 months, owners and operators shall complete a site assessment in accordance with the guidelines established by the department and LAC 33:XI.907. The results of the assessment and documentation of compliance with the temporary closure requirements in Subsection A of this Section shall be submitted in duplicate to the Office of Environmental Assessment within 60 days following the end of the 24-month temporary closure period.

1. The department may waive the site assessment requirement if the UST system is placed into service after receiving notification from the department to conduct the site assessment if the UST system passes tank and line tightness testing.

2. The 24-month site assessment is not required if a temporarily closed UST system contains product and release detection, in accordance with LAC 33:XI.701-705 and LAC 33:XI.Chapter 8, is conducted on the tank during the entire period that the UST system is temporarily closed. If release detection ceases, the 24-month site assessment shall be conducted within two years of cessation of release detection.

3. The department may grant a two year extension to the temporary closure site assessment requirement upon receiving a written request from the UST owner or operator. The written request shall provide justification for the

extension and documentation that all corrosion protection equipment is operated and maintained in accordance with Subsection A of this Section. If the UST system is returned to service prior to the end of the two year extension period, a 24-month temporary closure site assessment is not required.

4. Upon permanent closure of a UST system, the 24-month temporary closure site assessment may be used to satisfy the UST closure sampling requirements specified in LAC 33:XI.907 at the discretion of the department, provided that the UST system remained empty of regulated substances from the time of the temporary closure site assessment until the time of permanent closure.

F. A tank tightness test conducted in accordance with LAC 33:XI.701.A.3, a line tightness test conducted in accordance with LAC 33:XI.701.B.2, and a line leak detector test conducted in accordance with LAC 33:XI.701.B.1 shall be conducted within five days after a UST system that has been temporarily closed for three months or more is brought back into service.

G. Within 30 days after a UST system is placed back into service, an updated UST-REG form shall be submitted to the department identifying the date that the UST system was placed back into service.

H. Release detection operation and maintenance testing and inspections listed in LAC 33:XI.511, 513, and 703.A.2.d are due within 30 days of placing the UST system back into service, or within the required timeframe of the last test conducted as required by LAC 33:XI.511, 513, and 701.A.2.d, whichever is later.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), LR 33:2173 (October 2007), LR 34:2120 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2762 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2144 (November 2017), LR 44:1618 (September 2018).

#### **§905. Permanent Closure and Changes-in-Service**

A. At least 30 days before beginning either permanent closure or a change-in-service under Subsections B, C, and D of this Section, owners and operators shall notify the Office of Environmental Assessment of their intent to permanently close or make the change-in-service, unless such action is in response to corrective action.

1. UST owner shall submit a completed UST-SURV-01 form.

2. UST owner and/or certified worker(s) responsible for the closure critical junctures shall notify the appropriate regional office of the Office of Environmental Assessment by phone, mail, email, fax, or online (when available) at least seven days prior to implementing the permanent

closure or change-in-service and prior to commencing any *closure-critical junctures*, as defined in LAC 33:XI.1303.

3. Beginning January 20, 1992, all owners and operators shall ensure that an individual exercising supervisory control over *closure-critical junctures* (as defined in LAC 33:XI.1303) is certified in accordance with LAC 33:XI.Chapter 13. The assessment of the excavation zone required under LAC 33:XI.907 shall be performed after the department is notified but before the permanent closure or change-in-service is completed.

B. To permanently close a UST, owners and operators shall empty and clean the tank and all associated piping by removing all liquids and accumulated sludges. All tanks taken out of service permanently shall also be either removed from the ground, filled with an inert solid material, or closed in a manner approved by the department. All piping taken permanently out of service shall be removed from the ground, filled with an inert solid material, rendered inoperable, or closed in a manner approved by the department. Single-walled piping that was attached to a tank that is undergoing permanent closure or a change-in-service cannot be reused to convey regulated substances.

C. Continued use of a UST system to store a nonregulated substance is considered a change-in-service. Before a change-in-service, owners and operators shall empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with LAC 33:XI.907.

D. Cleaning and closure procedures found in LAC 33:XI.599.Appendix A shall be used to comply with this Section.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2173 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), repromulgated LR 39:85 (January 2013), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2145 (November 2017), LR 44:1620 (September 2018).

#### **§907. Assessing the Site at Closure or Change-in-Service**

A. Before permanent closure or a change-in-service is completed, owners and operators shall measure for the presence of a release where contamination is most likely to be present at the UST site, in accordance with the guidelines established by the department. In selecting sample types, sample locations, and measurement methods, owners and operators shall consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. Within 60 days following

permanent closure or change-in-service, the UST owner shall submit the following to the Office of Environmental Assessment:

1. a completed underground storage tank closure/assessment form (UST-SURV-02); and

2. results of the closure assessment (e.g., closure assessment report).

- a. The assessment results (e.g., closure assessment report) shall include a site diagram indicating locations where samples were collected, laboratory analytical results table, laboratory analytical report and chain of custody, manifests, and conveyance notice if applicable, in accordance with the guidelines established by the department.

B. If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered through the methods described in Subsection A of this Section, or in any other manner, owners and operators shall begin corrective action in accordance with LAC 33:XI.715.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2173 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2145 (November 2017), LR 44:1620 (September 2018).

## **Chapter 11. Financial Responsibility**

### **§1101. Applicability**

A. This Chapter applies to owners and operators of all petroleum or motor fuel underground storage tank (UST) systems except as otherwise provided in this Section.

B. Owners and operators of petroleum or motor fuel UST systems are subject to these requirements in accordance with LAC 33:XI.1103.

C. State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States are exempt from the requirements of this Chapter.

D. The requirements of this Chapter do not apply to owners and operators of any UST system described in LAC 33:XI.101.B and 101.C.1.a, b, and c.

E. If the owner and operator of a petroleum or motor fuel underground storage tank are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in event of noncompliance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1620 (September 2018).

### §1103. Compliance Dates

A. Owners of petroleum or motor fuel underground storage tanks shall comply with the applicable requirements of this Chapter. Previously deferred UST systems shall comply with the requirements of this Chapter according to the schedule in LAC 33:XI.801.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:729 (July 1992), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1621 (September 2018).

### §1105. Definition of Terms

A. When used in this Chapter, the following terms shall have the meanings given below.

*Accidental Release*—any sudden or nonsudden release of petroleum arising from operating an underground storage tank 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*—shall have the meaning given to this term by applicable state law; however, this term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

*Controlling Interest*—direct ownership of at least 50 percent of the voting stock of another entity.

*Financial Reporting Year*—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 Utilities Service. Financial reporting year may thus comprise a fiscal or a calendar year period.

*Legal Defense Cost*—any expense that an owner or operator or provider of financial assurance incurs in defending against claims or actions brought:

- a. by EPA or a state 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.

*Occurrence*—an accident, including continuous or repeated exposure to conditions, which results in a release from an underground storage tank.

**NOTE:** This definition is intended to assist in the understanding of these regulations and is not intended either to limit the meaning of *occurrence* in a way that conflicts with standard insurance usage or to prevent the use of other standard insurance terms in place of *occurrence*.

*Owner or Operator*—when the owner and operator are separate parties, refers to the party that is obtaining or has obtained financial assurances.

*Petroleum Marketing Facilities*—all facilities at which petroleum is produced or refined, and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.

*Property Damages*—shall have the meaning given this term by applicable state law. This term 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 that are covered by the policy.

*Provider of Financial Assurance*—an entity that provides financial assurance to an owner or operator of an underground storage tank through one of the mechanisms listed in LAC 33:XI.1111-1125, including a guarantor, insurer, risk retention group, surety, issuer of a letter of credit, or the state Underground Motor Fuel Storage Tank Trust Fund.

*Substantial Business Relationship*—the extent of a business relationship necessary under applicable 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.

*Tangible Net Worth*—the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, *assets* means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division LR 44:1621 (September 2018).

### §1107. Amount and Scope of Required Financial Responsibility

A. Owners or operators of petroleum or motor fuel underground storage tanks shall demonstrate 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 petroleum underground storage tanks in at least the following per-occurrence amounts:

1. for owners or operators of petroleum or motor fuel underground storage tanks that are located at petroleum marketing facilities, or that handle an average of more than 10,000 gallons of petroleum or motor fuel per month based on annual throughput for the previous calendar year, \$1,000,000; and

2. for all other owners or operators of petroleum or motor fuel underground storage tanks, \$500,000.

B. Owners or operators of petroleum or motor fuel underground storage tanks shall demonstrate 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 petroleum or motor fuel underground storage tanks in at least the following annual aggregate amounts:

1. for owners or operators of one to 100 petroleum or motor fuel underground storage tanks, \$1,000,000; and

2. for owners or operators of 101 or more petroleum or motor fuel underground storage tanks, \$2,000,000.

C. For the purposes of Subsections B and F of this Section only, a *petroleum or motor fuel underground storage tank* means a single containment unit and does not mean combinations of single containment units.

D. Except as provided in Subsection E of this Section, the amount of assurance provided by each mechanism or combination of mechanisms shall be in the full amount specified in Subsections A and B of this Section if the owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for:

1. taking corrective action;
2. compensating third parties for bodily injury and property damage caused by sudden accidental releases; or
3. compensating third parties for bodily injury and property damage caused by nonsudden accidental releases.

E. If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different petroleum or motor fuel underground storage tanks, the annual aggregate required shall be based on the number of tanks covered by each such separate mechanism or combination of mechanisms.

F. Owners or operators shall review the amount of aggregate assurance provided whenever additional petroleum or motor fuel underground storage tanks are acquired or installed. If the number of petroleum or motor fuel underground storage tanks for which assurance shall be provided exceeds 100, the owner or operator shall demonstrate financial responsibility in the amount of at least \$2,000,000 of annual aggregate assurance by the anniversary of the date on which the mechanism demonstrating financial responsibility became effective. If assurance is being

demonstrated by a combination of mechanisms, the owner or operator shall demonstrate financial responsibility in the amount of at least \$2,000,000 of annual aggregate assurance by the first-occurring effective date anniversary of any one of the mechanisms combined (other than a financial test or guarantee) to provide assurance.

G. The amounts of assurance required under this Section exclude legal defense costs.

H. The required per-occurrence and annual aggregate coverage amounts do not in any way limit the liability of the owner or operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1621 (September 2018).

### **§1109. Allowable Mechanisms and Combinations of Mechanisms**

A. Subject to the limitations of Subsection B of this Section, an owner or operator may use any one or combination of the mechanisms listed in LAC 33:XI.1111-1125 to demonstrate financial responsibility under this Chapter for one or more underground storage tanks.

B. An owner or operator may use self-insurance in combination with a guarantee only if, for the purpose of meeting the requirements of the financial test under this rule, the financial statements of the owner or operator are not consolidated with the financial statements of the guarantor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990).

### **§1111. Financial Test of Self-Insurance**

A. An owner or operator, and/or guarantor, may satisfy the requirements of LAC 33:XI.1107 by passing a financial test as specified in this Section. To pass the financial test of self-insurance, the owner or operator, and/or guarantor shall meet the criteria of Subsection B or C of this Section based on year-end financial statements for the latest completed fiscal year.

B. The owner or operator, and/or guarantor, shall meet the requirements of Paragraph 1 of this Subsection below.

1. The owner or operator, and/or guarantor, shall meet the following requirements.

- a. The owner or operator, and/or guarantor, shall have a tangible net worth of at least 10 times:

- i. the total of the applicable aggregate amount required by LAC 33:XI.1107, based on the number of underground storage tanks for which a financial test is used to demonstrate financial responsibility to the administrative authority under this Section;

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ii. the sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and the amount of liability coverage for which a financial test is used to demonstrate financial responsibility under LAC 33:V.3322, 3707, 3711, 3715, 4403, 4407, and 4411; and

iii. the sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility to EPA under 40 CFR 144.63.

b. The owner or operator, and/or guarantor, shall have a tangible net worth of at least \$10 million.

c. The owner or operator, and/or guarantor, shall have a letter signed by the chief financial officer worded as specified in Subsection D of this Section.

d. The owner or operator, and/or guarantor, shall either:

i. file financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Utilities Service; or

ii. report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet shall have assigned the firm a financial strength rating of 4A or 5A.

e. The firm's year-end financial statements, if 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 following requirements.

1. The owner or operator, and/or guarantor shall meet the financial test requirements of LAC 33:V.3715.F.1, substituting the appropriate amounts specified in LAC 33:XI.1107.B.1 for the "amount of liability coverage" each time specified in that Section.

2. 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.

3. The firm's year-end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

4. The owner or operator, and/or guarantor, shall have a letter signed by the chief financial officer, worded as specified in Subsection D of this Section.

5. 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 Utilities Service, the owner or operator, and/or guarantor, shall obtain a special report by an independent certified public accountant stating that:

a. 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 Subsection B or C of this Section, 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. To prepare this letter, the owner or operator shall use the form required by the department. This form may be obtained from the Office of Environmental Assessment.

### 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" or "nonsudden accidental releases" or "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(s).

Underground tanks 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. If separate mechanisms or combinations of mechanisms, other than the combination of this letter and the owner's or operator's status as an eligible participant in the Underground Motor Fuels Storage Tank Trust, are being used to assure any of the tanks at any one facility, list each tank assured by this financial test by the tank identification number provided in the registration submitted pursuant to LAC 33:XI.301.]

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 the following regulations:

Regulations	Amount
Closure (LAC 33:V.3707 and 4403)	\$ _____
Post-Closure Care (LAC 33:V.3711 and 4407)	\$ _____
Liability Coverage (LAC 33:V.3715 and 4411)	\$ _____
Corrective Action (LAC 33:V.3322)	\$ _____
Plugging and Abandonment (40 CFR 144.63)	\$ _____
Closure	\$ _____
Post-Closure Care	\$ _____
Liability Coverage	\$ _____
Corrective Action	\$ _____
Plugging and Abandonment	\$ _____
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 LAC 33:XI.1111.B.1 are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of LAC 33:XI.1111.B.1 are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the



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criteria of LAC 33:XI.1111.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 Utilities Service?   | _____ | _____ |
| 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.] | _____ | _____ |

## **Alternative II**

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] \$ \_\_\_\_\_
  7. Total assets in the U.S. [required only if less than 90 percent 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 percent 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 12-15 or lines 16-18:]   |          |       |
| 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 Utilities Service? \_\_\_\_\_  
 [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.]

I hereby certify that the wording of this letter is identical to the wording

specified in LAC 33:XI.1111.D as such regulations were constituted on the date shown immediately below.

[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 of the end of the year for which financial statements have been prepared.

F. The administrative authority may require reports of financial condition at any time from the owner or operator, and/or guarantor. If the administrative authority finds, on the basis of such reports or other information, that the owner or operator, and/or guarantor, no longer meets the financial test requirements of LAC 33:XI.1111.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 administrative authority that he or she no longer meets the requirements of the financial test, the owner or operator shall notify the Office of Environmental Assessment of such failure within 10 days.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), LR 27:2232 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2173 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2145 (November 2017), LR 44:1621 (September 2018).

## **§1113. Guarantee**

A. An owner or operator may satisfy the requirements of LAC 33:XI.1107 by obtaining a guarantee that conforms to the requirements of this Section. The guarantor shall be as described in either Paragraph 1 or 2 of this Subsection.

1. The guarantor is a firm that:

- a. possesses a controlling interest in the owner or operator;
- b. possesses a controlling interest in a firm described under Subparagraph A.1.a of this Section; or
- c. is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator.

2. The guarantor is a firm engaged in a substantial business relationship with the owner or operator and is

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 LAC 33:XI.1111 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in LAC 33:XI.1111.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 and to the Office of Environmental Assessment. If the Office of Environmental Assessment notifies the guarantor that he no longer meets the requirements of the financial test of LAC 33:XI.1111.B or C and D, the guarantor shall notify the owner or operator within 10 days of receiving such notification from the Office of Environmental Assessment. 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 LAC 33:XI.1139.C.

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.

#### 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 Louisiana Department of Environmental Quality 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 LAC 33:XI.1111.B or C and D and agrees to comply with the requirements for guarantors as specified in LAC 33:XI.1113.B.

2. [Owner or operator] owns or operates the following underground storage tank(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 LAC 33:XI.301 and the name and address of the facility.] This guarantee satisfies the requirements of LAC 33:XI.Chapter 11 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 underground storage tank(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 the Department of Environmental Quality 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 administrative authority of the Department of Environmental Quality has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the administrative authority, shall fund a standby trust fund in accordance with the provisions of LAC 33:XI.1135 in an amount not to exceed the coverage limits specified above.

In the event that the administrative authority 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 LAC 33:XI.715, the guarantor upon written instructions from the administrative authority shall fund a standby trust in accordance with the provisions of LAC 33:XI.1135, 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 administrative authority, shall fund a standby trust in accordance with the provisions of LAC 33:XI.1135 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 the financial test criteria of LAC 33:XI.1111.B or C and D, guarantor shall send within 120 days of such failure, by certified mail, notice to [owner or operator] and the administrative authority. The guarantee will terminate 120 days from the date of receipt of the notice by [owner or operator], as evidenced by the return receipt.

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 10 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 the Department of Environmental Quality's Underground Storage Tank Regulations.

7. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] shall comply with the applicable financial responsibility requirements of LAC 33:XI.Chapter 11 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 worker's 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 underground storage tank;

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 LAC 33:XI.1107.

9. Guarantor expressly waives notice of acceptance of this guarantee by the Department of Environmental Quality, by any or all third parties, or by [owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in LAC 33:XI.1113.C 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: \_\_\_\_\_

D. An owner or operator who uses a guarantee to satisfy the requirements of LAC 33:XI.1107 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 administrative authority under LAC 33:XI.1135. This standby trust fund shall meet the requirements specified in LAC 33:XI.1125.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2146 (November 2017), LR 44:1623 (September 2018).

### **§1115. Insurance and Risk Retention Group Coverage**

A. An owner or operator may satisfy the requirements of LAC 33:XI.1107 by obtaining liability insurance that conforms to the requirements of this Section 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.

B. Each insurance policy shall be amended by an endorsement worded as specified in Paragraph B.1 of this Section, or evidenced by a certificate of insurance worded as specified in Paragraph B.2 of this Section, except that instructions in brackets shall 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**

a. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage 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 tank identification number provided in the registration submitted pursuant to LAC 33:XI.301 and the name and address of the facility.]

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 underground storage tank(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 underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs. This coverage is provided under [policy number]. The effective date of said policy is [date].

b. 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 Clauses i-v of this Subparagraph are hereby amended to conform with Clauses i-v.

## ENVIRONMENTAL QUALITY

i. 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.

ii. 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 LAC 33:XI.1111-1123.

iii. Whenever requested by the administrative authority of the Department of Environmental Quality, the ["insurer" or "group"] agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements.

iv. Cancellation or any other termination of the insurance by the ["insurer" or "group"] will 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.

[Insert for claims-made policies:

v. The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ("insurer" or "group") within six months of the effective date of the cancellation or termination of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in LAC 33:XI.1115.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]:

\_\_\_\_\_  
\_\_\_\_\_

Address of [insurer or risk retention group]:

\_\_\_\_\_  
\_\_\_\_\_

Name of Insured:

\_\_\_\_\_  
Address of Insured:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Certification

a. [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 underground storage tank(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 tank identification number provided in the registration submitted pursuant to LAC 33:XI.301 and the name and address of the facility.]

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 underground storage tank(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 underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs. This coverage is provided under [policy number]. The effective date of said policy is [date].

b. The ["insurer" or "group"] further certifies the following with respect to the insurance described in Subparagraph a:

i. bankruptcy or insolvency of the insured shall not relieve the ["insurer" or "group"] of its obligations under the policy to which this certificate applies;

ii. 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 LAC 33:XI.1111-1123;

iii. whenever requested by the administrative authority of the Department of Environmental Quality, the ["insurer" or "group"] agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements;

iv. cancellation or any other termination of the insurance by the ["insurer" or "group"] will 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;

[Insert for claims-made policies:

v. the insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ("insurer" or "group") within six months of the effective date of the cancellation or other termination of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in LAC 33:XI.1115.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 one or more states"].

[Signature of authorized representative of insurer]

[Typed 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 one or more states.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1624 (September 2018).

### **§1117. Surety Bond**

A. An owner or operator may satisfy the requirements of LAC 33:XI.1107 by obtaining a surety bond that conforms to the requirements of this Section. 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 shall be worded as follows, except that instructions in brackets shall be replaced with the relevant information and the brackets deleted.

#### **Performance Bond**

Date bond executed: \_\_\_\_\_

Period of coverage: \_\_\_\_\_

Principal [legal name and business address of 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 tank identification number provided in the registration submitted pursuant to LAC 33:XI.301 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 underground storage tank"].

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 Department of Environmental Quality, in the above penal sums 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 sums 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 sums.

Whereas said Principal is required under Subtitle I of the Solid Waste Disposal Act, as amended, 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 underground storage 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 LAC 33:XI.715 and the administrative authority of the Department of Environmental Quality'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) identified above, or if the Principal shall provide alternate financial assurance, as specified in LAC 33:XI.Chapter 11, within 120 days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

1. any obligation of [insert owner or operator] under a worker's 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 underground storage tank; or

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 LAC 33:XI.1107.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

## ENVIRONMENTAL QUALITY

Upon notification by the administrative authority of the Department of Environmental Quality that the Principal has failed to ["take corrective action, in accordance with LAC 33:XI.715 and the administrative authority's instructions," and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) shall either perform ["corrective action in accordance with the department's Underground Storage Tank Regulations and the administrative authority'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 administrative authority under LAC 33:XI.1135.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the administrative authority has determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the administrative authority under LAC 33:XI.1135.

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, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal, as evidenced by the return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In Witness Whereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons 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 LAC 33:XI.1117.B as such regulations were constituted on the date this bond was executed.

Principal

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

Corporate Surety(ies)

[Name and address]

[State of incorporation] \_\_\_\_\_

[Liability limit]\$ \_\_\_\_\_

[Signature(s)]

[Name(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 fails to perform as guaranteed by the bond. In all cases, the

surety's liability is limited to the per-occurrence and annual aggregate penal sums.

D. The owner or operator who uses a surety bond to satisfy the requirements of LAC 33:XI.1107 shall establish a standby trust fund 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 administrative authority under LAC 33:XI.1135. This standby trust fund shall meet the requirements specified in LAC 33:XI.1125.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1624 (September 2018).

### §1119. Letter of Credit

A. An owner or operator may satisfy the requirements of LAC 33:XI.1107 by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Section. The issuing institution shall be an entity that has the authority to issue letters of credit in each state where used and whose letter-of-credit operations are regulated and examined by a federal or state agency.

B. The letter of credit shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

#### Irrevocable Standby Letter of Credit

[Name and address of issuing institution]

[Name and address of administrative authority of the Department of Environmental Quality]

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit Number \_\_\_\_\_ 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 of:

1. your sight draft, bearing reference to this letter of credit, No. \_\_\_\_\_; and
2. your signed statement reading as follows:

"I certify that the amount of the draft is payable pursuant to regulations issued under authority of Subtitle I of the Solid Waste Disposal Act, as amended."

This letter of credit may be drawn on to cover [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"] arising from operating the underground storage tank(s) identified below in the amount of [in words] \$[insert dollar amount] per occurrence and [in words] \$[insert dollar amount] annual aggregate:

[List the number of tanks at each facility and the name(s) and the 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 LAC 33:XI.301 and the name and address of the facility.]

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 worker's 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 underground storage tank;
- 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 LAC 33:XI.1107.

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify [owner or operator] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that [owner or operator] is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by [owner or operator], as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this 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 or operator] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in LAC 33:XI.1119.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 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 LAC 33:XI.1107 shall also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the administrative authority under LAC 33:XI.1135. This standby trust fund shall meet the requirements specified in LAC 33:XI.1125.

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.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1624 (September 2018).

### **§1121. Use of the Motor Fuels Underground Storage Tank Trust Fund**

The administrative authority was authorized by R.S. 30:2194-2195.10 to receive and administer the motor fuels underground storage tank trust fund (MFUSTTF) to provide financial responsibility for owners and/or operators of underground motor fuel storage tanks. Under the conditions described in this Section, an owner and/or operator who is eligible for participation in the MFUSTTF may use this mechanism to fulfill the financial responsibility requirements for eligible USTs. To use the MFUSTTF as a mechanism for meeting the requirements of LAC 33:XI.1107, the owner and/or operator shall be an eligible participant as defined in Subsection A of this Section.

A. Definitions. The following terms shall have the meanings ascribed to them as used in this Section.

*Advisory Board*—the Motor Fuels Underground Storage Tank Trust Fund Advisory Board (established under R.S. 30:2195.8), whose eight members consist of the following:

- a. the Secretary of the Department of Environmental Quality or his designee;
- b. four members appointed by the president of the Louisiana Oil Marketers and Convenience Store Association;
- c. one member appointed by the Mid-Continent Oil and Gas Association; and
- d. two members appointed by the secretary who represent the response action contractor community.

*Eligible Participant*—any owner of an underground storage tank who has registered a newly installed or operating or temporarily closed tank with the department prior to the date of a release, has paid the annual tank registration fees along with any late payment fees, and has not been excluded from coverage as provided in R.S. 30:2195.10.

*Motor Fuels Underground Storage Tank*—a UST used only to contain an accumulation of motor fuels.

*Third-Party Claim*—any civil action brought or asserted by any person against the secretary of the department and any owner of any underground storage tank for damages to person or property when damages are the direct result of the contamination of surface water, groundwater or soils by motor fuels released during operation of storage tanks as provided in R.S. 30:2194-2195.11. The term *damages to*

*person* shall be limited to damages arising directly out of the ingestion or inhalation of petroleum constituents from water well contamination or inhalation of petroleum constituents seeping into homes or buildings, and the term *damages to property* shall be limited to the unreimbursed costs of a response action and the amount by which property is proven to be permanently devalued as a result of the release.

**B. Financial Responsibility Requirements for MFUSTTF Participants**

1. Unless revised by the administrative authority in accordance with R.S. 30:2195.9(A)(5) and 10(D), MFUSTTF participants taking response actions shall pay the amounts required by R.S. 30:2195.9(A)(1)-(5) and 10(B).

2. The advisory board shall review the financial responsibility requirements on an annual basis and may recommend adjustments to the requirements to the secretary. The secretary shall determine and set the financial responsibility requirements annually [as provided in R.S. 30:2195.9(A)(5) and 10(D)].

**3. Substitution of a Departmental Lien**

a. A lien filed by the department with the same ranking and privilege as that authorized by R.S. 30:2195(F)(2) may be substituted for the financial responsibility requirement of this Section, but in no case shall the lien be substituted on behalf of an owner and/or operator who continues to operate the system. The use of the funds in the MFUSTTF during any fiscal year on a site for which the lien, as authorized by this Section, has been used to substitute for the financial responsibility amount shall not exceed 20 percent of the amount collected in the previous fiscal year. The administrative authority is authorized to exceed the 20 percent limitation contained in this Paragraph upon recommendation by the advisory board.

b. Upon recommendation by the advisory board to exceed the 20 percent limitation as provided in Subparagraph B. 3.a of this Section, the administrative authority shall provide written notification to the environmental legislative oversight committees listing the project name, the project location, and the amount of the project that exceeds the 20 percent limitation.

**C. Conditions for Use of the MFUSTTF. Funds in the MFUSTTF shall be used under the following conditions.**

1. Whenever the administrative authority determines that an incidence of surface water, groundwater or soil contamination resulting from the storage of motor fuels may pose a threat to the environment or to public health, safety, or welfare, and the owner or operator of the UST system has been found to be an *eligible participant* (as defined in Subsection A of this Section), the department shall obligate monies available in the MFUSTTF to provide for the following response actions:

a. investigation and assessment of sites shown to be contaminated by a release into the surface water, groundwater or soils from an underground motor fuel storage tank;

b. interim replacement and permanent restoration of potable water supply where it has been demonstrated that the supply was contaminated by a leak from an underground motor fuel storage tank; and

c. rehabilitation and remediation of sites contaminated by a leak into the surface water, groundwater or soils from an underground motor fuel storage tank, which may consist of cleanup of affected soil, groundwater, and inland surface waters, using cost-effective methods that are technologically feasible and reliable, while ensuring adequate protection of the public health, safety and welfare, and minimizing environmental damage, in accordance with the site selection and cleanup criteria established by the department.

i. Nothing herein shall be construed to authorize or require the department to obligate funds for payment of costs that may be associated with, but are not integral to, site rehabilitation, such as the cost of retrofitting or purchases of equipment needed in assisting cleanup operations.

ii. The monies expended from the MFUSTTF for any of the above approved costs shall be spent only up to such sum as that which is necessary to satisfy petroleum or motor fuel UST financial responsibility requirements specified in LAC 33:XI.1107 or \$2,000,000 per occurrence, whichever is greater. This amount shall include any third-party claim arising from the release of motor fuels from a motor fuel underground storage tank. However, if the secretary determines that further action is needed to address a condition that constitutes a danger or potential danger to the public health or the environment, monies from the MFUSTTF may be expended above the aggregate financial responsibility requirements of LAC 33:XI.1107.

2. Whenever the department has incurred costs for taking response actions with respect to the release of motor fuels from a UST system, or the department has expended funds from the MFUSTTF for response costs or third-party liability claims, the owner or operator of the underground motor fuel storage tank shall be liable to the department for such costs only if the owner or operator was not an eligible participant on the date of discharge of the motor fuels that necessitated the cleanup. Otherwise, liability is limited to the provisions contained in LAC 33:XI.1121.B. Nothing contained herein shall be construed as authorizing the expenditure from the MFUSTTF on behalf of any owner or operator of a UST system who is not an eligible participant at the time of the release for any third-party liability.

3. If the administrative authority has expended funds on behalf of an owner or operator who was not an eligible participant, and the MFUSTTF is entitled to reimbursement of those funds so expended, the administrative authority shall have the authority to, and is obligated to, use any and all administrative and judicial remedies that might be necessary for recovery of the expended funds plus legal interest from the date of payment by the administrative authority and all costs associated with the recovery of the funds.



4. The MFUSTTF may be used for reimbursement of any costs associated with the review of applications for reimbursement from the MFUSTTF, legal fees associated with the collection of costs from parties who are not eligible participants, audits of the MFUSTTF, and accounting and reporting regarding the uses of the MFUSTTF.

5. The MFUSTTF may be used to make payments to a third party who brings a third-party claim against any owner or operator of an underground motor fuel storage tank because of damages caused by a release into the surface water, groundwater, or soils and who obtains a final judgment in said action enforceable in Louisiana against the owner or operator only if it has been satisfactorily demonstrated that the owner or operator was an *eligible participant* as defined in LAC 33:XI.1121.A when the release occurred. The indemnification limit of the MFUSTTF with respect to satisfaction of third-party claims shall be that which is necessary to satisfy the requirements of LAC 33:XI.Chapter 11.

#### D. Procedures for Disbursements from the MFUSTTF

1. Monies held in the MFUSTTF are disbursed by the administrative authority in the following manner.

a. Notwithstanding any provision of R.S.2194-2195.11 to the contrary, any remediation work contracted for on or after August 1, 1995, shall be paid by the department to the response action contractor who performed the department-approved assessment or remediation work upon the presentation of proper invoices for the response actions taken when authorized by the secretary or his designee.

b. Cost-effective procedures, as established by the administrative authority, shall be implemented by eligible participants using MFUSTTF monies.

2. Payments are made to third parties who bring suit against the administrative authority in his or her official capacity as representative of the MFUSTTF and the owner or operator of an underground motor fuel storage tank who is an eligible participant as defined in Subsection A of this Section and such third party obtains a final judgment in that action enforceable in Louisiana. The owner or operator stated above shall pay the amount required by Subsection B of this Section toward the satisfaction of said judgment and the MFUSTTF will pay the remainder of said judgment. The attorney general of the state of Louisiana is responsible for appearing in said suit for and on behalf of the administrative authority as representative of the MFUSTTF. The administrative authority as representative of the MFUSTTF is a necessary party in any suit brought by any third party that would allow that third party to collect from the MFUSTTF, and the administrative authority shall be made a party to the initial proceedings. Payment shall be made to the third-party claimant only if the judgment is against an owner or operator who was an eligible participant on the date that the incident that gave rise to the claim occurred. The costs to the attorney general of defending these suits, or to those assistants that the administrative authority employs or the attorney general appoints to assist, shall be recovered from the MFUSTTF. If the MFUSTTF is insufficient to make

payments when the claims are filed, such claims shall be paid in the order of filing when monies are paid into the MFUSTTF. Neither the amount of money in the MFUSTTF, the method of collecting it, nor any of the particulars involved in setting up the MFUSTTF shall be admissible as evidence in any trial in which suit is brought when the judgment rendered could affect the MFUSTTF.

3. For sites with more than one eligible release and/or with multiple owners and/or operators who are eligible participants, but who cannot agree on the selection of a single qualified response action contractor (RAC) for the purpose of complying with LAC 33:XI.709, 711, and 715, or who have failed to implement the requirements of LAC 33:XI.709, 711, and 715 within the time required by the administrative authority, the administrative authority shall select a RAC to carry out the requirements of LAC 33:XI.709, 711, and 715 or order the respective owners and/or operators to implement the requirements of LAC 33:XI.709, 711, and 715 without the assistance of MFUSTTF monies. In choosing a RAC, the administrative authority shall solicit notices of interest in the project from all approved RACs except those currently under contract to any of the multiple owners and/or operators of the site and then randomly select a single RAC from all RACs that have expressed an interest in the project. The RAC selected shall not be one currently under contract to any one of the multiple owners and/or operators of the site. Upon selection by the administrative authority of a single RAC, the multiple owners and/or operators shall grant property access to the RAC to comply with the requirements of LAC 33:XI.709, 711, and 715. Failure to grant property access or to impede the implementation of the requirements of LAC 33:XI.709, 711, and 715 shall result in the disallowance of reimbursement monies from the MFUSTTF. The multiple owners and/or operators shall sign and submit any and all documentation required for reimbursement from the MFUSTTF for any work that has been previously completed in accordance with LAC 33:XI.709, 711, and 715. Once the reimbursement documentation has been approved and accepted by the MFUSTTF, then all reasonable costs shall be reimbursed directly to the RAC.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq. and specifically 2195-2195.10.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), LR 27:521 (April 2001), amended by the Office of Environmental Assessment, LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:864 (May 2008), LR 35:1881 (September 2009), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1625 (September 2018), amended by the Office of the Secretary, Legal Affairs Division, LR 51:786 (June 2025).

#### **§1123. Trust Fund**

A. An owner or operator may satisfy the requirements of LAC 33:XI.1107 by establishing a trust fund that conforms to the requirements of this Section. The trustee shall be an

entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

B. The wording of the trust agreement shall be identical to the wording specified in LAC 33:XI.1125.B.1, and shall be accompanied by a formal certification of acknowledgement as specified in LAC 33:XI.1125.B.2.

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 Office of Environmental Assessment for release of the excess.

E. If other financial assurance as specified in this Chapter is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Office of Environmental Assessment 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 Subsection D or E of this Section, the administrative authority will instruct the trustee to release to the owner or operator such funds as the administrative authority specifies in writing.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2146 (November 2017). LR 44:1627 (September 2018).

## §1125. Standby Trust Fund

A. An owner or operator using any one of the mechanisms authorized by LAC 33:XI.1113, 1117, or 1119 shall establish a standby trust fund when the mechanism is acquired. The trustee of the standby trust fund shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

B. The standby trust agreement shall meet the following requirements.

1. The standby 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

Trust agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "Incorporated in the state of \_\_\_\_\_" or "a national bank"], the "Trustee."

[Whereas, the Department of Environmental Quality, an agency of the government of the state of Louisiana, has established certain regulations applicable to the Grantor, requiring that an owner or operator of an underground storage tank 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 underground storage tank (this paragraph is only applicable to the standby trust agreement)];

[Whereas, the Grantor has elected to establish (insert either "a guarantee," "surety bond," or "letter of credit") to provide all or part of such financial assurance for the underground storage tanks identified herein and is required to establish a standby trust fund able to accept payments from the instrument (this paragraph is only applicable to the standby trust agreement)];

[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 the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.
- b. The term *Trustee* means the Trustee who enters into this Agreement and any successor Trustee.

#### 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 Fund

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Department of Environmental Quality. 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.] Payments made by the provider of financial assurance pursuant to the administrative authority of the Department of Environmental Quality'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 as provider of financial assurance, 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 the administrative authority shall direct, in writing, to provide for the payment of the costs of [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"] arising from operating the tanks covered by the financial assurance mechanism identified in this Agreement.

The Fund may not be drawn upon to cover any of the following:

- a. any obligation of [insert owner or operator] under a worker's 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 underground storage tank;
- 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 LAC 33:XI.1107.

The Trustee shall reimburse the Grantor, or other persons as specified by the administrative authority, from the Fund for corrective action expenditures and/or third-party liability claims in such amounts as the administrative authority shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the administrative authority 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 may communicate 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 beneficiaries 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, or any other owner or operator of the tanks, or any of their affiliates 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 a state government;
- 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. Advice of Counsel

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully

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protected, to the extent permitted by law, in acting upon the advice of counsel.

### Section 11. 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 12. 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 writing sent to the Grantor and the present Trustee by certified mail 10 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 13. 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 the attached Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. 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 administrative authority of the Department of Environmental Quality to the Trustee shall be in writing, signed by the administrative authority, 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 administrative authority 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 administrative authority, except as provided for herein.

### Section 14. Amendment of Agreement

This Agreement may be amended by an instrument in writing executed by the Grantor and the Trustee, or by the Trustee and the administrative authority of the Department of Environmental Quality if the Grantor ceases to exist.

### Section 15. Irrevocability and Termination

Subject to the right of the parties to amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall continue until terminated at the written direction of the Grantor and the Trustee, or by the Trustee and the administrative authority of the Department of Environmental Quality, 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.

### Section 16. 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 the administrative authority 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 17. Choice of Law

This Agreement shall be administered, construed, and enforced according to the laws of the state of Louisiana, or the Comptroller of the Currency in the case of National Association banks.

### Section 18. 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 (if applicable) 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 LAC 33:XI.1125.B.1 as such regulations were constituted 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]

2. The standby trust agreement shall be accompanied by the following formal certification of acknowledgement.

State of \_\_\_\_\_

County of \_\_\_\_\_

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 resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he 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 signed her/his name thereto by like order.

[Signature of notary public]

[Name of notary public]

C. The administrative authority will instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the administrative authority 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.

D. An owner or operator may establish one trust fund as the depository mechanism for all funds assured in compliance with this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1627 (September 2018).

**§1127. Substitution of Financial Assurance Mechanisms by Owner or Operator**

A. An owner or operator may substitute any alternate financial assurance mechanisms as specified in this Chapter, provided that at all times he or she maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of LAC 33:XI.1107.

B. After obtaining alternate financial assurance as specified in this Chapter, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990).

**§1129. Cancellation or Nonrenewal by a Provider of Financial Assurance**

A. Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator.

1. Termination of 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 receives the notice of termination, as evidenced by the return receipt.

2. Termination of insurance or risk retention group coverage 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.

B. If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in LAC 33:XI.1131, the owner or operator shall obtain alternate coverage as specified in this Section 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 notify the Office of Environmental Assessment of such failure and submit:

1. the name and address of the provider of financial assurance;
2. the effective date of termination; and
3. the evidence of the financial assistance mechanism subject to the termination maintained in accordance with LAC 33:XI.1133.B.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2146 (November 2017), LR 44:1627 (September 2018).

**§1131. Reporting by Owner or Operator**

A. An owner or operator shall submit to the Office of Environmental Assessment the appropriate forms listed in LAC 33:XI.1133.B documenting current evidence of financial responsibility as follows.

1. The owner or operator shall submit the appropriate forms within 30 days after the owner or operator identifies a release from an underground storage tank required to be reported under LAC 33:XI.713 or 715.B.

2. The owner or operator shall submit the appropriate forms if he or she fails to obtain alternate coverage as required by this Chapter, within 30 days after the owner or operator receives notice of:

- 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;
- c. failure of a guarantor to meet the requirements of the financial test; or
- d. other incapacity of a provider of financial assurance.

3. The owner or operator shall submit the appropriate forms as required by LAC 33:XI.1111.G and 1129.B.

B. An owner or operator shall certify compliance with the financial responsibility requirements of these regulations as specified in the underground storage tank registration and technical requirements form (UST-REG) required to be submitted to the department under LAC 33:XI.301.B and C.

C. The administrative authority may require an owner or operator to submit evidence of financial assurance as described in LAC 33:XI.1133.B or other information relevant to compliance with this Chapter at any time.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2146 (November 2017), LR 44:1627 (September 2018).

**§1133. Recordkeeping**

A. Owners or operators shall maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this Chapter for an underground storage tank until released from the requirements of this Chapter under LAC 33:XI.1137. An owner or operator shall maintain such evidence at the underground storage tank site or the owner's or operator's place of business. Records maintained off-site shall be made available upon request of the department.

B. An owner or operator shall maintain the following types of evidence of financial responsibility.

1. An owner or operator using an assurance mechanism specified in LAC 33:XI.1111-1123 shall maintain a copy of the instrument worded as specified.

2. An owner or operator using a financial test or guarantee 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. Such evidence shall be on file no later than 120 days after the close of the financial reporting year.

3. An owner or operator using a guarantee, surety bond, or letter of credit shall maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

4. 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 to the agreements.

5. An owner or operator covered by the Underground Motor Fuel Storage Tank Trust Fund shall maintain on file a copy of the current registration certificate.

6. An owner or operator using an assurance mechanism specified in LAC 33:XI.1111-1123 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 of LAC 33:XI.Chapter 11.

The financial assurance mechanism(s) used to demonstrate financial responsibility under LAC 33:XI.Chapter 11 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]

The owner or operator shall update this certification whenever the financial assurance mechanism(s) used to demonstrate financial responsibility change(s).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1627 (September 2018).

**§1135. Drawing on Financial Assurance Mechanisms**

A. The administrative authority shall require the guarantor, surety, or institution issuing a letter of credit to place the amount of funds stipulated by the administrative authority, up to the limit of funds provided by the financial assurance mechanism, into the standby trust under the circumstances described in either Paragraph A.1 or 2 below.

1. The administrative authority shall require that the funds be placed into the standby trust if both of the following occur:

a. the owner or operator fails to establish alternate financial assurance within 60 days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or, as applicable, other financial assurance mechanism; and

b. the administrative authority determines or suspects that a release from an underground storage tank covered by the mechanism has occurred and so notifies the owner or operator, or the owner or operator has notified the administrative authority pursuant to LAC 33:XI.707-713 or 715 of a release from an underground storage tank covered by the mechanism.

2. The conditions of Paragraph B.1 or Subparagraph B.2.a or b of this Section are satisfied.

B. The administrative authority may draw on a standby trust fund under the following circumstances.

1. The administrative authority makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed, and the owner or operator, after appropriate notice and opportunity to comply, has not conducted corrective action as required under LAC 33:XI.715.

2. The administrative authority has received one of the following.

a. The administrative authority receives 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  
[Signature(s)]  
Claimant(s)  
Attorney(s) for Claimant(s)  
(Notary) Date

b. The administrative authority receives 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 an underground storage tank covered by financial assurance under this Chapter, and the administrative authority determines that the owner or operator has not satisfied the judgment.

C. If the administrative authority determines that the amount of corrective action costs and third-party liability claims eligible for payment under Subsection B of this Section 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 administrative authority shall pay third-party liability claims in the order in which the administrative authority receives certifications under Subparagraph B.2.a of this Section, and valid court orders under Subparagraph B.2.b of this Section.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1628 (September 2018).

#### **§1137. Release from the Requirements**

A. An owner or operator is no longer required to maintain financial responsibility under this Chapter for an underground storage tank after the tank has been permanently closed or undergoes a change-in-service, or, if corrective action is required, after corrective action has been completed and the tank has been permanently closed or undergoes a change-in-service as required by LAC 33:XI.Chapter 9.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1628 (September 2018).

#### **§1139. Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance**

A. Within 10 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 Office of Environmental Assessment by certified mail of such commencement and submit the appropriate forms listed in LAC 33:XI.1133.B documenting current financial responsibility.

B. Within 10 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 LAC 33:XI.1113.

C. An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will 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 a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator shall obtain alternate financial assurance as specified in this Chapter 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, he shall notify the Office of Environmental Assessment.

D. Within 30 days after receipt of notification that the motor fuels underground storage tank trust fund (MFUSTTF) has become incapable of paying for assured corrective action or third-party compensation costs, the owner or operator shall obtain alternate financial assurance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of Environmental Assessment, LR 31:1578 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2174 (October 2007), LR 34:1902 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2146 (November 2017), LR 44:1628 (September 2018).

#### **§1141. Replenishment of Guarantees, Letters of Credit, or Surety Bonds**

A. If at any time after a standby trust is funded upon the instruction of the administrative authority with funds drawn from a guarantee, 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:

1. replenish the value of financial assurance to equal the full amount of coverage required; or

2. acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

B. For purposes of this Section, the full amount of coverage required is the amount of coverage required by LAC 33:XI.1107. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990).

## **Chapter 12. Requirements for Response Action Contractors Who Assess and Remediate Motor Fuel Contaminated Sites Eligible for Cost Reimbursement in Accordance with the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF)**

### **§1201. Scope**

A. These requirements apply to persons engaged in release response action activities including, but not limited to, assessment, remedial planning, design, engineering, construction, and the operation of recovery systems or ancillary services that are carried out in response to any discharge or release or threatened release of motor fuel into the groundwater or subsurface soils, and who have been hired by an owner or operator who seeks and is eligible for reimbursement for such services under the MFUSTTF, hereinafter referred to as the Tank Trust Fund (TTF).

B. Effective July 15, 1988, the tank trust fund required that response action contractors (RACs) be approved by the department. Any RAC performing UST site work due to a release eligible for tank trust fund participation shall meet standards approved by the department, and its name shall appear on the RAC list maintained by the department. Only RACs appearing on the list at the time the work was performed are eligible for reimbursement from the TTF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194(C) and 2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:522 (April 2001), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1629 (September 2018).

### **§1203. Prohibitions**

A. Twelve months after promulgation of these regulations, April 20, 2002, no person shall conduct a response action at a UST site unless the person has met the standards for the qualification of a RAC, as defined herein,

and appears on the approved current RAC listing. These RACs shall be approved for RAC listing by the administrative authority. The MFUSTTF Advisory Board (hereinafter referred to as the "Board") may recommend to the administrative authority at any time that RACs be added or deleted from the list.

B. Persons performing *technical services*, as defined in LAC 33:XI.103, shall be RACs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194(C) and 2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:522 (April 2001), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1629 (September 2018).

### **§1205. Qualifications**

A. In order to be listed by the department as an approved RAC for work that is eligible for tank trust fund reimbursement, persons shall submit, on a department-prescribed application form, documentation demonstrating and verifying that they meet the following minimum requirements:

1. the applicant shall be licensed by the state of Louisiana Licensing Board for Contractors with a specialty compatible with UST assessment/remedial activities. A copy of the valid, unexpired license shall be provided in the name of the applicant to be placed on the RAC list;

2. the applicant shall have a minimum of \$1,000,000 of contractor's general liability insurance and a minimum of \$1,000,000 of coverage for an accidental and/or unexpected release(s) from a UST system(s) and/or any other accidental releases related to site-specific RAC activities. A valid, unexpired copy of the certificates of insurance coverage must be provided in the name of the applicant to be placed on the RAC list and with the department listed as an additional insured. Certificate of insurance shall provide that the insurer shall give 30 days notice of cancellation to all insured;

3. the applicant's employees shall comply with applicable Occupational Safety and Health Administration (OSHA) training and certification requirements. A written statement indicating compliance shall be provided;

4. the applicant shall have on staff, either a registered engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology or a geologist with expertise in these fields. A copy of the current engineering registration or the college transcripts for the geologists shall be provided;

5. the applicant shall sign a certification statement certifying that the RAC will not accept an authorization for work from an eligible tank trust fund participant if the RAC cannot begin work within 72 hours of authorization. The certification shall include a commitment that the RAC will retain documentation demonstrating compliance with this requirement; and



6. the applicant shall provide a job history and adequately demonstrate relevant experience in environmental subsurface investigation and remediation at sites exhibiting subsurface motor fuels contamination. A minimum of five jobs shall be documented, and the applicant shall adequately demonstrate the following:

- a. experience in oversight of installation of groundwater monitoring wells and soil borings;
- b. experience in developing and sampling/monitoring groundwater monitoring wells;
- c. experience in the oversight of physical removal, treatment, and/or proper disposal of soils contaminated with hydrocarbons or motor fuels;
- d. experience in the removal of free phase hydrocarbons from the subsurface; and
- e. proficiency with projects that require design and installation/implementation of corrective action programs for the purpose of remediating contaminated soils and/or groundwater sites impacted by USTs.

B. In order to adequately demonstrate required experience, as provided in Subparagraphs A.6.a-e of this Section, only the applicant's experience, or the experience of a full-time employee of the applicant, shall be considered. The experience of a subcontractor or person(s) on retainer shall not be considered, and therefore, will not meet the requirements of this Section.

C. The RAC List will be updated once per quarter to include applicants who have met the requirements of this Section. All new applications or annual updates shall be submitted to the Office of Management and Finance by 4:30 p.m. on or before the fifteenth day of March, June, September, and December.

D. Applicants who submit applications lacking the documentation required in Subsection A of this Section shall be notified in writing of the deficiencies.

E. Any application that adequately demonstrates the requirements of Subsection A of this Section shall be submitted to the administrative authority for approval. Upon approval by the administrative authority the applicant shall be included on the approved RAC list.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2194(C) and 2195.10.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:523 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1629 (September 2018).

#### **§1207. RAC Listing**

A. Notification Requirements. Notification in writing shall be made to the department within 30 days by a RAC who no longer meets the qualification requirements of LAC 33:XI.1205.A.

B. Annual Update Requirements. No later than March 1 of each year, each RAC shall submit the following information to the department:

1. a copy of a valid, unexpired license by the State of Louisiana Licensing Board for Contractors with a specialty compatible with UST assessment/remedial activities in the name of the RAC identified on the RAC listing;
2. a copy of a valid, unexpired certificate bearing the name of the person identified on the RAC listing indicating a minimum of \$1 million contractor's general liability insurance and a minimum of \$1 million of coverage for an accidental and/or unexpected release(s) from a UST system(s) and/or any other accidental releases related to site-specific RAC activities; and
3. a copy of a certificate or documentation showing current OSHA compliance for HAZWOPER training, as defined in 29 CFR 1910.120, for at least one full-time employee of the RAC.

C. Failure to submit the documentation required in this Section shall result in removal from the RAC listing until such time as the required information is submitted and reviewed by the department and the administrative authority approves the RAC listing.

D. A RAC shall notify the owner/operator within 24 hours of receiving notice of a RAC listing removal, suspension, and/or revocation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2194(C) and 2195.10.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:523 (April 2001).

#### **§1209. Suspension/Revocation from RAC Listing**

A. The administrative authority may suspend or revoke a RAC from the listing based on the following:

1. evidence of fraud or deceit with respect to any documentation submitted to the department; or
2. willful violation of the laws and regulations of Louisiana regarding site assessment or remediation.

B. The administrative authority may revoke a RAC's listing when the RAC or its employees have been convicted of a felony related to response action activities. This revocation is not subject to the RAC listing revocation procedures provided for in this Section.

C. The suspension or revocation of a RAC listing will depend upon seriousness of the offense(s).

1. After a suspension period of 90-365 days as specified by the department, a RAC may petition the department in accordance with the requirements of LAC 33:XI.1205 for relisting.

2. After a period of five years, a RAC whose listing has been revoked may reapply. If a RAC listing is revoked a second time, the revocation shall be permanent.

D. Written Notice

1. When the department determines that a RAC listing should be suspended or revoked, the department shall notify that RAC by certified mail. Such written notice shall contain the following:

a. facts that will justify a recommendation to the administrative authority for suspension or revocation from the RAC listing;

b. a description of the general nature of the evidence supporting the recommendation; and

c. unless the RAC, within 30 days after receipt of the notice, submits a request for an informal hearing before the board, the department shall recommend to the administrative authority that the RAC's listing be suspended or revoked. The request for informal hearing shall be submitted to the Office of Management and Finance. A written statement giving the RAC's view of the circumstances shall accompany the request for hearing.

2. If the RAC does not mail a request for hearing and a statement of the circumstances within the time frame specified, the department shall recommend to the administrative authority the suspension for a specified period of time or revocation from the RAC listing.

#### E. Hearings before the Board

1. At least 20 days prior to a hearing, the department shall provide the RAC with a notice of the hearing. The notice shall be sent by certified mail and include the time, date, and location of the hearing.

2. All hearings on suspension or revocation from the RAC listing held before the board shall not be an adjudicatory hearing as provided for in the Administrative Procedure Act and shall be conducted with rapidity and without the observance of all formalities. All hearings conducted by the board shall be recorded and a transcript prepared.

3. Within 90 days after conducting an informal hearing, the board shall forward its recommendation to the administrative authority for a decision.

4. Upon receiving notice of a RAC listing removal, suspension, and/or revocation, a RAC shall notify the owner/operator within 24 hours.

F. Record of Hearing. The record of proceedings conducted under this Section shall consist of the following:

1. the RAC's certified request for hearing and statement of the circumstances;

2. the notice of the hearing;

3. all documentary evidence and written comments received;

4. the recording of the hearing; and

5. written recommendations from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194(C) and 2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:524 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2175 (October 2007).

## Chapter 13. Certification Requirements for Persons Who Install, Repair, or Close Underground Storage Tank Systems

### §1301. Applicability

A. The requirements of this Chapter apply to persons engaged in critical junctures of a UST system. Certification is not required for those persons engaged in the process of relining an underground storage tank through the application of such materials as epoxy resins, nor does it include the process of conducting a tightness test to establish the integrity of the tank, or installing or initial testing of UST system cathodic protection systems.

B. After January 20, 1992, no person shall conduct critical junctures of a UST system unless the person present at the site and exercising responsible supervisory control over the critical juncture is currently certified in accordance with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005).

### §1303. Definitions

A. The terms defined in this Section shall have the following meanings in this Chapter.

*Closure*—the process of removing and disposing of a UST system no longer in service, the process of abandoning such a system in place through the use of prescribed techniques for the purging of vapors and the filling of the vessel with an inert material, the process of properly labeling a tank, and the process of collecting subsurface samples.

*Closure-Critical Juncture*—those steps in the UST system closure process that are crucial to the prevention or detection of releases from that system. These steps are:

a. the process of cleaning/vapor removal;

b. all subsurface sample collection events, unless a response action contractor approved by the department under LAC 33:XI.Chapter 12 is present and is exercising responsible supervisory control of sample collection events; and

c. the removal or filling with inert material of the tank.

*Critical Junctures*—those steps identified in *installation-critical junctures*, *repair-critical junctures*, or

*closure-critical junctures* of UST systems, as defined in this Section.

*Individual Certification*—certification in either installation/repair or closure of a UST system.

*Install*—the process of placing a UST system in the ground and preparing it to be put into service and the process of renovating an existing site (i.e., replacing product piping, adding new product piping, and installing new containment sumps).

*Installation-Critical Juncture*—those steps during the installation of a UST system that are crucial to the prevention or detection of releases from that system. These steps are:

- a. the preparation of the excavation immediately prior to receiving backfill and the tank;
- b. the setting of the tank and the piping, including placement of any anchoring devices, backfilling to the level of the tank, and strapping (if any);
- c. any time during the installation in which piping components are connected;
- d. all pressure testing of the UST system (including associated piping) performed during the installation;
- e. completion of the backfill and filling of the excavation;
- f. installation of release detection devices within the excavation zone;
- g. installation of containment sumps; and
- h. installation of spill and overfill prevention equipment.

*Person*—an individual who engages in the installation, repair or closure, as defined in this Section, of UST systems.

*Renewal Fee*—biannual fee for installation/repair and/or closure certification.

*Repair*—modification or correction of a UST system through such means as replacement of valves, fill pipes, vents, and liquid level monitoring systems, and the routine maintenance and inspection of the efficacy of cathodic protection devices.

*Repair-Critical Juncture*—those steps in the UST system repair or modification process that are crucial to the prevention of releases from that system. These include the following:

- a. the completion of the excavation of existing tanks and/or piping;
- b. the actual performance of the repairs to the tank and/or piping;
- c. any time during the repair process when components of the piping are connected;
- d. any time during the repair process when the tank and/or the associated piping are tested; and

- e. any time during the modification process when equipment is connected to the tank and/or piping.

*UST Certification Board*—a board of seven members, to be appointed in the manner prescribed in LAC 33:XI.1313, for the purpose of providing expert counsel to personnel of the department with respect to determining applicant eligibility, and the examination, certification, and certification renewal of persons engaged in UST system installation, repair and/or closure. The board's activities are, however, advisory only, and final authority for administration of the certification program rests with the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1075 (May 2005), amended by the Office of the Secretary Legal Affairs and Criminal Investigations Division, LR 44:1630 (September 2018).

### **§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates**

A. Categories of Certification. UST certificates issued by the department will address the following categories:

1. installation/repair; and
2. closure.

#### **B. Requirements for Certification Examination**

1. To qualify for an examination, a person need not be a resident of Louisiana. A person shall provide, to the Office of Environmental Assessment, payment of the examination fee and meet the following requirements to be eligible for a UST certification examination.

a. Any person who applies for a certificate addressing UST system installation/repair shall demonstrate:

- i. two years of experience in UST system installation/repair; and
- ii. active participation in a minimum of five separate jobs involving UST system installations/repairs (three of which must be installations) conducted after December 22, 1988.

b. Any person who applies for a certificate addressing UST system closure shall demonstrate:

- i. two years of experience in UST system closures; and
- ii. active participation in a minimum of five jobs involving UST system closures conducted after December 22, 1988.

c. The following may substitute for the experience required in LAC 33:XI.1305.B.1.a or b:

- i. a civil, environmental, or mechanical engineering degree from a recognized college or university; or

ii. closely related work experience on a year-for-year basis.

2. All information regarding an applicant's qualifications shall be provided on a department-prescribed application form. Applications shall include a listing of jobs performed, their locations, and the names of the companies/employers for whom the jobs were conducted.

C. Requirements for Certification. No person shall be issued a certificate unless he or she has successfully passed a written examination described in LAC 33:XI.1307.

D. Fees. The following fees are hereby established for certification and renewal:

1. examination fee for individual certification, \$146; and
2. certification renewal fee, \$146.

E. Jurisdiction. The UST certificate shall be valid in all parishes and municipalities throughout Louisiana. All certified persons shall be required to conduct their operations within local jurisdictions in conformity with local requirements.

F. Expiration and Renewal of Certificates

1. All UST certificates and certificate renewals shall expire December 31 of every second year. Applications for certificate renewal and payment of the renewal fee should be submitted to the Office of Management and Finance by November 1 of each year they expire. A person whose certificate has expired prior to his or her submission of evidence of compliance with Paragraph F.2 of this Section shall be considered a new applicant for certification.

2. A person who has been issued a certificate may renew it for another two-year period by paying the designated renewal fee and:

a. submitting, on a department-prescribed form, a certificate renewal application demonstrating that he or she has completed 16 hours of department-approved continuing education training courses; or

b. submitting, on a department-prescribed form, a certificate renewal application and successfully passing a written examination described in LAC 33:XI.1307. Payment of the examination fee specified in LAC 33:XI.1305.D.1 is not required.

G. Issuance and Display of Identification Cards and Certificates

1. Upon issuance of a UST certificate, the department will issue an identification card to the successful applicant that shows the person's name, driver's license or state identification number and the issuing state, categories of certification, certificate number, certificate issuance date, and certificate expiration date.

2. A person who holds a current certificate shall present his or her identification card upon request by a representative of the Department of Environmental Quality

or the owner or operator of the UST system for which installation, repair, or closure is to be conducted.

H. Changes in Employment. It is incumbent upon a certified person to provide written notification to the Office of Environmental Assessment within 20 days after his or her knowledge of a change in employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), LR 29:691 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2175 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), LR 43:951 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2147 (November 2017), LR 44:1630 (September 2018).

**§1307. Certification Examinations**

A. Nature of the Examinations. Examinations administered to candidates for certification under the terms of this Chapter shall be written, multiple-choice examinations. Specific examinations will be given for each category of certification. The questions used in an actual examination shall be extracted from a larger set of questions approved by the department and based on current technology and industry-recommended practices with respect to the proper installation, repair, or closure of UST systems. Questions shall be considered confidential and not subject to general public review procedures.

B. Source of Examination Questions. Questions used in the examination shall be derived from standards, instructions, and recommended practices listed in LAC 33:XI.599. Appendix A. Additional questions may be derived from regulations adopted by the department and from state and federal laws pertaining to UST system installation, repair, or closure.

C. Administration of Examinations

1. Examinations shall be conducted by personnel of the department or persons designated by the department.

2. Beginning after July 20, 1991, the department or persons designated by the department shall conduct written examinations at such times and locations within the state as the department may designate in order to identify persons as being qualified to receive UST certification.

3. No fewer than four examinations shall be offered per year for each of the two years following July 20, 1991, and at least two examinations per year for each year thereafter.

D. Passing Grade. Candidates for certification shall correctly answer not less than 75 percent of the questions in a category of certification to qualify for that category of certification.

E. Failed Examinations. No applicant will be allowed to take an examination more than three times within a 12-month period. A new application, with applicable fees, shall be submitted each time before the new examination may be taken.

F. Revision, Security, and Administration of Certification Examinations. The department shall update examinations, preserve the security of examinations, and administer examinations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1075 (May 2005), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1630 (September 2018).

### **§1309. Approval of Continuing Training Courses**

A. No course in continuing education submitted to the Office of Environmental Assessment will be considered for approval unless the course:

1. is relevant to the subject area of installation, repair, closure, or the regulation of UST systems; and
2. offers instruction on the most current generally acceptable technology or methods for the subjects in LAC 33:XI.1309.A.1. The technology or methods presented shall satisfy department rules, and state and federal laws governing UST system installation, repair, or closure.

B. Applications for approval of specific training programs shall be submitted to the Office of Environmental Assessment in writing. Such submissions shall contain a complete course outline; training material; sample certificates; methodology for verifying attendance; date, time, and location of the course; the name of the offering organization; the credentials of the instructors; and a certification that the technology or methods that will be presented in the training program will satisfy department rules, and state and federal laws governing UST system installation, repair, or closure.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2175 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2765 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2147 (November 2017), LR 44:1630 (September 2018).

### **§1311. Denial of Issuance or Renewal of a Certificate or Revocation of a Certificate**

A. Should an applicant be denied issuance or renewal of a UST certificate or should a person's certificate be revoked, the reason or reasons for such denial or revocation shall be

set forth in writing to the person by the administrative authority.

B. Possible reasons for denial of issuance or renewal of a certificate or for revocation of a certificate include the following:

1. failure to achieve a passing grade on the written examination described in LAC 33:XI.1307;
2. failure to submit required documentation;
3. previous revocation of a certificate held by the applicant;
4. evidence of fraud or deceit with respect to documentation required by and submitted to the department;
5. failure to present the identification card upon request of a department representative at a UST system installation, repair, or closure;
6. willful violation of the laws and regulations of Louisiana regarding UST system installation, repair, or closure; or
7. any other cause that, in the opinion of the administrative authority, constitutes adequate grounds for denial or revocation of a certificate.

C. Appeal of Denial or Revocation. A person who has been denied issuance or renewal of a certificate or who has had a certificate revoked may appeal the action in accordance with R.S. 30:2024(A).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1075 (May 2005).

### **§1313. UST Certification Board**

A. Composition. The administrative authority may appoint seven members of a body to be known as the UST Certification Board. Members of the board shall be as follows:

1. the administrative authority or his or her designee;
2. a representative of the Louisiana Oil Marketers' and Convenience Store Association;
3. a representative of the Louisiana Mid-Continent Oil and Gas Association;
4. two representatives from within the certified UST contractor community; and
5. two representatives from within the UST owner community.

B. Function. The UST Certification Board is to be used on an ad hoc basis by the administrative authority. Members of the UST Certification Board shall offer technical expertise, suggestions, and other counsel to the administrative authority to assist in the planning, updating, and administration of the UST certification program. The

board's activities shall, however, be advisory only, and final authority for administration of the certification program shall rest with the department.

C. **Tenure and Public Identification.** The normal term of office for a member of the board shall be as designated by the administrative authority. The identity, affiliation, and tenure of each board member shall be a matter of public record.

D. **Meetings and Compensation.** The board shall meet as determined by the administrative authority. Members of the board not otherwise employed by the state shall serve without compensation.

E. **Chairman.** At the first meeting of the board, members of the board shall elect a chairman from among their own number. The chairman shall serve for the duration of the ad hoc appointment, shall preside at meetings of the board, and shall be eligible for reelection.

F. **Vice Chairman and Secretary.** The person elected as chairman shall appoint another member of the board to serve as vice chairman. The vice chairman shall preside at meetings of the board in the absence of the chairman. The administrative authority shall designate a member of his or her staff to serve as secretary to the board. The secretary shall prepare meeting agendas and notices, prepare minutes of board meetings, and otherwise maintain records related to the proceedings and activities of the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1075 (May 2005), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 32:394 (March 2006), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1630 (September 2018).

## Chapter 14. Grant Program

### §1401. Purpose

A. The purpose of this Chapter is to establish procedures to provide for grants for upgrades and/or improvements to single wall underground storage tank systems.

B. The Motor Fuels Underground Storage Tank Trust Fund Advisory Board shall advise the secretary with regard to implementation of the tank trust account including investment of the trust and issuance of grants.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2195.2.A(6)(e).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:2104 (December 2023).

### §1403. Applicability

A. This Chapter applies to providing financial assistance to private persons, or entities, in financing the costs necessary for upgrading and/or improving single wall

underground storage tank systems to the standards outlined in LAC 33:XI.303.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2195.2.A(6)(e).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:2105 (December 2023).

### §1405. Effective Date

A. These regulations are effective January 1, 2024. These regulations are only applicable to grant applications that occur on or after January 1, 2024.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2195.2.A(6)(e).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:2105 (December 2023).

### §1407. Definitions

A. The following terms used in this Chapter shall have the meanings listed below and shall only apply to this Chapter, unless the context otherwise requires, or unless specifically redefined in a particular Section.

*Applicant*—the legal underground storage tank (UST) owner (i.e., private person or private entity) at the project facility.

*Domiciled*—the place of a private person's habitual residence; a private person may reside in several places, but may not have more than one domicile. The domicile of a private entity may be either the state of its formation or the state of its principal place of business.

*Improvement*—to replace existing single wall underground storage tanks (USTs) with double wall USTs and/or replace existing single wall product piping with double wall product piping. Containment and ancillary equipment such as submersible turbine pumps (STP), STP sumps, under dispenser containment (UDC) sumps, UST monitors and sensors, fill ports, shear valves, flex lines, and spill/overfill prevention equipment may be included for reimbursement only when upgrading and/or improving existing single wall USTs and/or single wall product piping.

*Private Entity*—a nonpublic juridical entity to which the law attributes personality, e.g., a corporation or a partnership. The personality of an entity is distinct from that of its members.

*Private Person*—a natural person or human being.

*Project Facility*—a single, specific facility where the grant will be applied for the approved upgrades and/or improvements to single wall underground storage tank systems.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2195.2.A(6)(e).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:2105 (December 2023).

**§1409. Grant Program Funding and Requirements**

A. This grant program is funded by the cost recovery efforts and interest earned on the tank trust account (interest account) in accordance with R.S. 30:2195.2.

B. A grant may only be made pursuant to this Chapter if all of the following apply:

1. the applicant is domiciled in Louisiana;
2. the site is registered with the department as a single wall underground storage tank system; and
3. the applicant is in compliance with and has paid all fees assessed by the Environmental Quality Act, La. R.S. 30:2001, et seq., and LAC 33:XI.

C. Grants provided pursuant to this Chapter shall only be made in the form of reimbursement for completed upgrades and/or improvements after inspection and approval by the department.

D. No grant shall exceed \$150,000. The total amount of grants issued per state fiscal year (July 1-June 30) shall be determined by the beginning balance in the interest account as indicated below.

1. If the interest account has a beginning balance of greater than \$5,000,000 on July 1, then the total amount of grants per year shall not exceed \$3,000,000.

2. If the interest account has a beginning balance of less than \$5,000,000 on July 1, then the total amount of grants per year shall not exceed \$1,500,000.

E. Eligible applicants may apply for only one grant each state fiscal year.

F. The applicant shall apply the grant only at the project facility.

G. Applicants shall complete the upgrade and/or improvement as soon as possible but no later than two fiscal years (July 1-June 30) beyond the fiscal year of approval for participation in the grant program. Failure to complete the upgrade and/or improvement within two fiscal years will result in the applicant being ineligible for reimbursement from the grant program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2195.2.A(6)(e).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:2105 (December 2023).

**§1411. Application Process**

A. An application for funding shall be on a department provided form and shall include information regarding:

1. the applicant, including location of domicile;
2. the project facility, including information about the single wall underground storage tank system; and
3. the proposed upgrade and/or improvements to the single wall underground storage tank system.

B. The application period for participation in the grant program shall be from January 1 to March 31. Applications received after March 31 will be rejected for participation in the grant program for the upcoming state fiscal year and the applicants must reapply for participation in the grant program for the forthcoming state fiscal year.

C. The department may perform a compliance evaluation inspection of the project facility prior to any upgrades and/or improvements.

D. The department shall notify the applicant in writing if the application has been approved or rejected with an explanation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2195.2.A(6)(e).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:2105 (December 2023).

**§1413. Procedures Prior to Making Upgrades or Improvements**

A. Applicants may be approved for the grant program upon the condition they meet the requirements for participation and are in compliance with the Environmental Quality Act, R.S. 30:2001, et seq., and LAC 33:XI.

B. Applicants must have written approval from the department for participation in the grant program prior to implementing any eligible upgrades and/or improvements.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2195.2.A(6)(e).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:2106 (December 2023).

**§1415. Department Inspections and Notifications**

A. The department may perform periodic inspections during the upgrade and/or improvement and may be present for all installation-critical junctures.

B. If the Environmental Quality Act, R.S. 30:2001, et seq., and LAC 33:XI are not followed by the UST owner, operator, or certified worker prior to and during the upgrade and/or improvement, the applicant may not be awarded the grant reimbursement.

1. The department shall notify the applicant in writing as soon as any violation is determined that disqualifies the applicant from receiving the grant reimbursement.

C. The applicant shall notify the department upon completion of the upgrade and/or improvement.

D. The department shall perform a final inspection of the upgrade and/or improvement and prepare a final inspection report documenting the work has been completed in accordance with the scope of work.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2195.2.A(6)(e).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:2106 (December 2023).

**§1417. Grant Reimbursement Procedures**

A. The grant reimbursement shall be on a department provided form and shall include the following.

1. An affidavit signed by the applicant that all upgrades and/or improvements have been completed in accordance with the scope of work and in accordance with the Environmental Quality Act, R.S. 30:2001, et seq., and LAC 33:XI.

2. Copies of all paid invoices for the upgrade and/or improvement.

B. The applicant shall not request reimbursement until after the project facility is placed into service from the upgrade and/or improvement.

C. The grant program reimbursement form shall be submitted to the department within 90 days of the project facility being placed into service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2195.2.A(6)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:2106 (December 2023).

**Chapter 15. Enforcement****§1501. Inspection and Entry**

A. Owners and operators of USTs shall allow an authorized representative of the department, upon proper presentation of credentials, to do the following.

1. The representative shall be allowed to enter, for inspection or sampling purposes, the premises where a UST system is or might be located or in which monitoring equipment or records required by these regulations are kept. Most inspections will be unannounced and should be allowed to begin immediately, but in no case shall begin more than 30 minutes after the time the inspector presents his or her credentials and announces the purpose(s) of the inspection. A delay of over 30 minutes shall constitute a violation of these regulations. Additional time may be granted, however, if the inspector or the administrative authority determines that the circumstances warrant such action.

2. The representative shall have access to and be allowed to copy any records that the department or the representative finds necessary for the enforcement of these regulations. For records maintained in either a central or private office that is open only during normal office hours and is closed at the time of the inspection, the records shall be made available as soon as the office is open, but in no case later than noon the next working day.

3. Photographs (Reserved)

4. The representative shall be allowed to inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under these regulations.

5. The representative shall be allowed to sample or monitor for the purposes of assuring compliance with these regulations, or as otherwise authorized by the Act (R.S. 30:2001 et seq.), any substances or parameters at any location.

**B. Sample Collection**

1. When the department's inspector announces that samples will be collected, the owner/operator will be given 30 minutes to prepare containers in order to collect duplicates. If the owner/operator cannot obtain and prepare sample containers within this time, he or she is considered to have waived his or her right to collect duplicate samples, and the sampling will proceed immediately. Further delay on the part of the owner/operator in allowing initiation of the sampling will constitute a violation of these regulations.

2. At the discretion of the department's inspector or the administrative authority, sample collection shall proceed immediately (without the 30 minutes described in LAC 33:XI.1501.B.1), and the inspector will supply the owner/operator with duplicate samples.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990).

**§1503. Failure to Comply**

A. Failure of any person to comply with any of the provisions of these regulations or any order issued hereunder constitutes a violation of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990).

**§1505. Investigations: Purposes, Notice**

A. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the persons or parties involved. Notice of the initiation of an investigation may be given to any complainant who provided the information prompting the investigation, and if advisable, to the person(s) under investigation, if the identity of such person(s) is known.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990).