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Solid Waste Management Officials

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EPA Docket Center (EPA/DC),
Mail Code 2822T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

ATTN: Docket ID No. EPA–HQ–UST–2011–0301

RE: Revising Underground Storage Tank Regulations—Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training Proposed Rulemaking

Dear Sir/Madam:

The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) offers the following comments on U.S. Environmental Protection Agency's (EPA's) proposed rulemaking for the Underground Storage Tank (UST) Regulations, published in the Federal Register on November 18, 2011 [76 FR 223].

ASTSWMO is an association representing the waste management and remediation programs of the 50 States, five Territories and the District of Columbia (States). Our membership includes State managers and their staff from the following program areas: Tanks (UST, LUST, and State Funds/Financial Responsibility), Hazardous Waste, Federal Facilities, CERCLA, Brownfields, Solid Waste, and Sustainable Materials Management.

ASTSWMO strongly supports EPA's efforts in updating federal tanks regulations, as it has been more than twenty years since the initial tank rules were adopted. In the meantime, State and Federal programs have matured, tank and fueling technologies have advanced significantly, and the regulated community has implemented many operational changes. As such, ASTSWMO recognizes that developing this proposal was no small task and has an interest in seeing that these regulations be finalized. In addition, it is imperative to recognize that the continuation of EPA's funding to States is imperative for the development and implementation of State regulations that implement these federal requirements.

In developing these comments, the Tanks Subcommittee and Federal Regulations Revisions Workgroup (Workgroup) sought input and information from State tanks programs. State-specific comments that have been shared with ASTSWMO are provided in the enclosed tables; however, no particular States is identified on the comment tables. Please note that the State comments provided in the enclosed tables have not been adopted or endorsed by ASTSWMO and that individual States may also be submitting comments directly to EPA.

The attached comment tables partition comments by subject area, following the topic discussions in the Federal Register. In addition to the specific comments included in the attachment, ASTSWMO has the following major comments on EPA's proposed rule revisions.

New equipment and operational standards

Many of the proposed revisions will result in better operation and maintenance of tank systems to prevent releases, which is almost always more cost effective than the costs of remediation after releases. The Workgroup applauds EPA's proposed revisions that strengthen these important aspects of prevention. As detailed further in the attachment, most States strongly support EPA's proposed changes on secondary containment, monthly walk-through inspections, and functionality testing for all aspects of tank system equipment. ASTSWMO does note that there are some States that are concerned that requiring the monthly walk-through inspection to include opening tank top sumps for inspection may pose certain health and safety risks as well as the possibility of breaking seals that are designed to keep surface water out of the sump. However, some other States support monthly sump and system inspections, noting that their State corrective action funds and federal LUST Trust Fund programs have spent significant amounts on releases that could have been prevented through inspections.

Compatibility requirements

States support the proposed revision to 280.32 with one exception; ASTSWMO suggests a modification to the option for equipment or component manufacturer approval. This approval should include a requirement that sufficient testing of the equipment or component be conducted to demonstrate long term compatibility of the equipment or component with the product being stored.

State Program Approval

States strongly and almost uniformly object to the proposed 3-year timeframe for State Program Approval (SPA) proposed in the revisions to 40 CFR Part 281. Few people currently working at EPA and in State tanks programs participated in the initial SPA process. Some States submitted multiple SPA packages before gaining approval, and all packages required significant documentation, often from multiple government agencies within any given State. In order to prepare new SPA packages, most States will have to revise their tank rules; some States may be required to make statutory changes to their authorizing legislation. ASTSWMO strongly encourages EPA to recognize these factors and work with States to address adopting the new requirements in lieu of setting a deadline within the regulation. If EPA decides that a time period must be set within the regulation, it should be at least five (5) years.

Recognition of State Programs

State programs that have been developed in accordance with the Energy Policy Act grant guidelines need to be recognized in the revised Part 280. Some States chose options allowed by the grant guidelines that are different than the requirements being proposed by EPA. EPA should adopt language at the beginning of the sections on secondary containment and on operator training that owners must comply with State programs adopted pursuant to the Energy Policy Act and approved by EPA as meeting grant guidelines; if no State requirement has been enacted or if the State requirement does not meet the requirements of the grant guidelines, then owners must comply with the secondary containment or operator training provisions of Part 280. Many States

have already adopted requirements that are currently being implemented and the proposed regulation may confuse owners and operators about which requirements they must follow. Taking this approach would have two major benefits. First, owners and operators will have a better understanding of when and how to comply with the requirements.

Second, for States that can be no more stringent than the EPA, adding language that points to the Energy Policy Act and by inference the grant guidelines that were issued to implement the Act, allows State legislatures to recognize the options from the grant guidelines that the State chose. Without this language, some States with a different approach may be perceived as being more stringent than EPA's regulations and hence be required by the State legislature to revise the State requirements to match the EPA regulations (even though EPA has approved the State regulations as meeting the grant guidelines).

Clarity of the applicability of the Regulation

In regard to emergency generator tanks, the States strongly support the proposed elimination of release detection deferral for emergency generator tanks; as these emergency generator tanks have been regulated for many years, States encourage their adoption of release detection equipment in order to prevent releases, save corrective action funds, and protect the environment. However, the lack of clarity in the some of the proposed language concerning deferred tanks and systems raises several concerns for ASTSWMO's Workgroup. Although the Federal Register indicated EPA's assumption that some of these deferred systems do not exist, some States have identified numerous examples of potentially newly regulated tanks and systems that would unintentionally become subject to regulation. If in fact the population of deferred tanks that the States believe exists, and therefore would be regulated under the proposed language, the Workgroup has significant concerns about how the proposed changes would affect States' regulated tanks populations and regulatory resources.

Clarity of the Requirements for new testing requirements

The lack of specificity with the requirements for functionality tests for spill and overfill prevention system, release detection equipment and integrity testing of secondary containment systems is also a concern for ASTSWMO. While EPA indicates that there may be an industry standard available in the future, the current language within the proposed regulation does not make it clear what EPA expects owners and operators to do in order to be in compliance with these requirements. While an industry standard may be available in the future, EPA should define in the proposed regulations what will be considered acceptable for these requirements. Without this specificity in the regulation, this requirement will be difficult to implement and enforce in the future. In addition, other industry standards may become available that do not meet the intent of what EPA is proposing but would be acceptable based on the wording of the proposed regulation.

Ease of Implementation of new testing requirements

The various new testing and inspection requirements have different phase-in schedules and frequency to be performed. In order to minimize confusion and to increase compliance, EPA should consider adopting a consistent time frame for the first tests to be performed and a consistent frequency for performing the tests.

Flexibility for States
It is evident from the various comments on the attached table that States have different opinions on many aspects of the proposed regulation. To the extent possible and feasible, we respectfully encourage EPA to adopt language within the regulation that allows a State to alter some of the timeframes for the requirements. This approach is used in the current regulation to recognize that States may impose slightly different timeframes to begin the tests or inspections or frequency of the test or inspection.

ASTSWMO appreciates EPA's considerable efforts to coordinate with States, Territories, and the District of Columbia and other stakeholders to arrive at a reasonable set of proposed revisions intended to protect the environment without an unreasonable financial burden for the majority of the revisions proposed. We appreciate your consideration of this letter and the enclosed comments.

Sincerely,

Ed Thamke (MT)
President, ASTSWMO

Attachment: Individual State Comments

A. Changes to Establish Federal Requirements for Operator Training and Secondary Containment	Responses
1. Operator Training (pg. 71712 - 71715)	
Should EPA impose a limit on the number of USTs or facilities a Class A or B operator is responsible for? If so, what should the limit be and why?	EPA should not impose a limit. A limit on the number of USTs or facilities that Class A or B operators are responsible for should be a responsibility for State programs to impose.
	No, it's not for anyone to determine how much workload a person can handle
	We allow the Class B operator to be over no more than 15 facilities because we believe that the operator cannot handle the Class B duties for more than 15 facilities. This number was a compromise between the State and the rules workgroup comprised of various operators throughout the state.
	No. I don't think there would be agreement on what is doable by any single individual, and trying to impose a limit is not justified. If limits are placed, let states impose them- not for the Federal government to do.
	There should be a limit for the B Operator, but it would need to be based on things like facility size, number of tanks responsible for, travel distance, etc. I believe we tried for 50 in our rules which seemed like an agreeable number to our Ad Hoc Committee.
	No
	Yes. The exact number would vary from operator to operator depending on levels of competence and expertise. A "safe" lower limit would be no more than 10 facilities. This assumes each facility requires 1/2 days attention of the operator each week of a normal five day work week.
	We limit Class B to 30 sites because they have primary responsibility for daily operations, a typical district manager.
	Class A, no. Class B a reasonable number for span of control. Maybe 5?
	No
	There should not be a limit.
	No. Any limit should be an individual state-specific requirement.
	No

How many regulated UST facilities are unattended in the United States?	Need definition of "unattended. In our State if the fueling is POS, such as credit card, we consider it unattended because the convenience store may be closed, but still allow fueling.
	Unknown, we do not track
	20 that we know for sure
	We probably have about 100
	Unknown.
	I don't know.
	Estimated to be ~ 20% in State (~360)
	We do not specifically track this information.
	Unknown. We might be able to determine this number by running a query in SID, our storage tank data base. This was not able to be performed before sending the response, though.
	Unknown; A better definition of "unattended" is needed for clarification, Does this mean unattended 24/7 or only unattended after normal business hours.
EPA is basing the initial period for meeting the training requirement on the UST installation date. Should we consider other criteria? If so, what and why?	Operator competency has no relationship to the age of the tank. New components fail. This complicates the state's ability to effectively oversee operator training. An operator may have multi facilities with varying ages of tanks. A mom & pop operation with older tanks probably have better competency than a newly built station with a green manager. This proposal appears to conflict with the initial compliance date of the energy bill guidance.
	Yes. EPA should consider the dates established by the implementing agency, many of which will have passed prior to a final rule.
	The installation date should not matter, everyone should be trained within a certain timeframe of the rules effective date. After that, it should be 30 days before assuming responsibility.
	No.
	We require training within 30 days for a new facility or new owner, since registration is required within 30 days for new facility or new owner.
	Installation date should have nothing to do with it. EPA should consider risk such as number of tanks.
	No
	No other criteria should be considered.

	As the oldest tanks are at the greatest risk for a release we concur that installation date is the most reasonable method to use.
Is there a need for a phased-in schedule for operator training? If so, is EPA's proposed schedule reasonable?	A more flexible phase-in schedule should be established than the one proposed by EPA on pg. 71784.
	Yes and EPA's proposed schedule is reasonable.
	States have known about the training requirement since 2005. It's OK to delay the training, it's a difficult task, but to have phase-in dates complicates it. Phase-in dates are hard for the implementing agency to track and will require additional work. One final due date is recommended, preferably the "three years after" date.
	No. Most states with OT programs already have compliance dates. There should be no phase-in based on age of tank. Everyone should have the same compliance date. What justifies basing a phase-in date for trained operators on tank age?
	A phase-in schedule in not necessary. A delayed implementation schedule is appropriate if an implementing agency has not already established a date. EPA's schedule in not reasonable and does not recognize that many implementing agencies have already established schedules.
	We have already implemented a 07-2011 deadline, with the goal of being 100% compliant by 08-2012 deadline provided in EPA Energy Act Guidance.
	Schedule is all by 12 months from effectiveness of the regulations. EPA had a hard date in their guidance documents and is now disregarding that.
	We don't believe a phased in approach is necessary.
	In State, regulations to be in place by August 2012.
	We agree that a phased in approach is the most practical approach. Due to sheer volume of numbers of operators that may need to be trained it is unrealistic in large states to implement a program for everyone at once. As the oldest tanks are at the greatest risk for a release we concur that installation date is the most reasonable method to use.
	No reason to have it phased in when there has been adequate time to get people trained.
Does EPA's proposal prohibit training approaches currently available? If so, which ones and why?	No.

	Unaware of any it would prohibit.
	EPA's proposal may negatively impact training approaches adopted by implementing agencies which are more stringent than the approaches proposed by EPA. States that can be no more stringent than federal requirements due to state requirements may be left with a "disallowed method" if EPA picks a less stringent approach, even if the State's approach was allowed by grant guidance issued by EPA for implementing this provision of the Energy Policy Act.
	No
	Yes. Our rules require Class A and B operators to take and pass an exam. The wording in the federal rule indicates that either training or passing an exam is acceptable. This is not allowed in our State as the operator must pass an exam. We would prefer wording similar to: "The implementing agency may allow training, examination, or both." Our State's statutes do not allow the state to be any more or any less stringent than federal rules. Our current rule may be construed to be more stringent than the proposed federal rule.
	The only one I know is the allowance for only independent organizations to provide training, which would preclude companies who own tanks from training their own A and B operators. I'm not sure I agree with that. I don't think it's necessarily wrong, maybe it should be a state decision.
	No
	We are not aware of any current program that should be prohibited by the proposed EPA regulation.
	EPA's proposal does not prohibit approaches currently allowed in the State.
	No opinion.
Should EPA prohibit particular training approaches? If so, which ones and why?	No. All trainings, including in-house trainings, are okay as long as they get the same approval and provide the same required training components/requirements.
	Yes. Any methods which do not verify the identity of the person receiving the training or certification of training. i.e., on-line testing in the absence of proctored testing locations.

	We believe EPA should leave it up to the state as allowed under the EPAct of 2005. State's rules have been in place since 2007. The new federal rule allows training as an acceptable operator training option, which is not allowed in State. We do not have the resources to review training programs to determine whether or not the training meets the requirements.
	No. The idea in the OT Guidelines was to provide as much flexibility as possible.
	Better definitions in this section of the regulations (i.e., "independent")
	No opinion
	No
	No
	We are not aware of any particular training approach that should be prohibited.
	Prohibition of training options should be left to states to determine.
Although operators can access any available information source to obtain necessary knowledge of UST systems, in order to address potential conflicts of interest concerns, only independent organizations are allowed to develop and administer the evaluation component of training programs and comparable examinations. Are there cases where EPA should consider exceptions to this proposed requirement?	First EPA needs to define "independent" evaluator. It is presumed that this means that training and evaluation cannot be done by "in house" staff. This should be left to the states as it should be self-correcting. In fact in-house training may be more individualized and specific to the equipment used by a particular facility and might then be even more practical than generalized training such as on-line 3rd party training programs. If in house training is not adequate then tank owners will have a high rate of inspection failures. States may then require re-training by a different organization if they feel that is appropriate.
	No
	No.
	Not convinced this decision should not be left to states, but don't feel strongly about it either way.
	This proposed requirement should be left to individual states to determine.
	No, this is an exceptional idea to make sure whoever takes the test is the person getting certified.
	The State allows a company to administer the training and the testing provided that the course was approved by the State.
	Government agencies or private companies should be able to train and give examinations. The large majors have extensive training programs. It is fine if the training and examination is given by the same entity.
	No Opinion.

Other comments?	"UST owners/operators must designate all employees"?
	Page 17114, IV.A.1. -Who must be trained - Temporarily out of use UST systems are not addressed as to whether or not they require training. They should only be required to be trained on the TOU requirements.
	Page 71712, IV.A.1.Any program "established"…should say "established or approved". This way it is clear that the agency doesn't have to create something.
	Page 71783, 280.241(b)The language is not clear that "UST owners and operators must designate *all* of their employees who meet the Class C operator definition as Class C operators." as stated on page 71712 and 71713.
	Retraining – agreed that retraining for equipment changes would be an unnecessary burden.
	"Each employee who meets designation must have Class C training." General Class C training - who meets this designation?
	The EPA is proposing to allow contracting to a third party Operator A and Operator B responsibilities. EPA is in effect allowing owners to contract complete responsibility to a third party for the UST system that by regualtiion they are responsible for. Yes, we can still hold owners responsibile but it unduly complicates matters. EPA states the Class C operator must be an employee of the facility but the more important Class A and B operators do not. Seems backwards.
	The EPAct of 2005 required EPA to consider state programs in place prior to development of EPA guidance on operator training. The State believes that the federal rule should allow the states to maintain operator training programs that were in place prior to the date of this proposed federal rule. The State has spent a considerable amount of resources to develop its training program based on the EPAct of 2005 and the 2007 guidance. States that have completed this effort should be allowed the flexibility to retain training programs that are already in place. The State does not have resources to review and approve all training programs that may be developed, and we believe that an examination process is the most cost effective and efficient method to meet the operator training requirement.

	The State does not believe 30 days is sufficient to complete operator training when the operator must take an exam. We believe 60 days would be more appropriate.
	3. 280.244 first paragraph last sentence. Clarification is needed on the definition of "out of compliance." EPA may want to consider wording that requires retraining when an SOC violation is discovered. Again, due to the exam requirement in State, consider a 60-day time frame to retrain rather than 30 days.
	4. 280.242(b) and (b)(1): The existing State program does not allow site-specific training for the Class B operator. The Class B operator must take the ICC national exam. We do not have the resources to review all site-specific exams that potentially could be developed.
	5. EPA has indicated it will allow the Class A and B operators to be contractors. The State prohibits the use of contractors for the Class A and B operators. We believe the owners/operators of the facilities should provide these functions as they are ultimately responsible for compliance with the rules. Additionally, the proposed federal definitions for Class A and B operators defines the Class A operator as an individual who has primary responsibility to operate and maintain the UST system, and the Class B operator is defined as an individual that has day-to-day responsibility for implementing regulatory requirements. It does not seem reasonable that a contractor would have these responsibilities as established in the definitions.
	6. Flexibility for training is acceptable; however, the federal rule should allow states to retain training programs in place prior to adoption of this proposed federal rule.
Other: 280.241 (b) pg. 71783: "Class C Operators must be employees of the UST System Owner and Operator."	At a minimum this wording must be changed to Owner **or** Operator, not Owner **and** Operator. If the Owner and Operator are separate entities the C Operator cannot be an employee of both.
Other: 280.242 (a) (2) and (b) (2) Page 71783 : The Regulations state that the Operator training program must *evaluate* the Class A and B Operators to determine that the individual has the knowledge and skills to make an informed decision.	What exactly does EPA mean by evaluate? Does this mean a formal process such as a written test or practical demonstration must be a part of the training? Is classroom training without a formal exam acceptable?

Other: 280.241 (b) Page 71783: UST system owners and operators must designate: Each individual who meets the definition of Class C operator at the UST facility as a Class C operator.	EPA needs to clarify this statement. Does this mean that every individual who works in any capacity at an UST facility must receive operator C training?
2. Secondary Containment (71715 - 71718)	
If you have any of the following data, please provide the: **1) Number of UST systems not installed within 1,000 feet of any existing community water system or potable drinking water well.** **2) Number of non-motor fuel dispensers connected to UST systems in the United States.** **3) Typical length or percentage of piping repaired during a typical repair.** **4) Costs, types and freqency of piping repairs and replacements.**	1)When the State began looking at this requirement we were surprised at the number of municipalities that obtained potable water from rivers and lakes. Records were available on municipal well locations, but not private well locations. Also, the number if municipal and private wells that had been impacted by leaking UST systems located more than 1,000 feet distance was significant to put no merit in the 1,000 foot setback. 2) Unable to document. Many of those dispensing non motor vehicle fuels were at one time and may be in the future motor fuel dispensing. There is no logic for a UST system configuration to be exempt because it involves a petroleum product that is used for non motor vehicle fuel purpose. 3) Piping "repair" is rare. It is typically performed in association with a flex connector replacement or island upgrade. Less than 10%. 4) Unable to document costs.
	We do not specifically track this information.
	A repair to fiberglass piping or flex piping should typically be 24" or less. Piping comes in 15, 25 or 30 ft lengths for FG, and any length for flex. Steel piping cannot typically be repaired. The State currently allows up to 20 feet distance for a single run of piping; over that would require replacement with non-metallic double-wall.
	3) Depends on type of pipe: FRP if cracked is repaired on that area only. Flex pipe is usually completely replaced the entire run from sump to sump. 4) $100,000 for 3 piping runs to 4 dispensers (includes removing old piping, new piping install, 4 sumps under dispensers, 3 sumps at turbines, new cement, new asphalt.)
	1. Probably 12 3. Typically terminus to terminus - just enough so it's a segment that can be monitored interstitially 4. Frequent repairs and replacements
	1. Unknown. 2. Unknown. 3. About 5 feet. 4. Unknown.

	1) We have identified only 2 - 9,000 gallon USTs at a cardlock facility in the southeast part of the state, which does not have a bathroom or running water on site, and there are no nearby drinking water wells. The facility is between 2 small towns 2) We regulate a UST facility that holds regulated mineral spirits; the facility has one dispenser. We also have identified 2-3 outdoor dispensers for kerosene in USTs. 3) Our regulations implementing the secondary containment requirement of the Energy Policy Act requires double-walled piping if more than 5 feet of piping is replaced. In general, repairs/replacements are kept under 5 feet, presumably so owners/operators can avoid the secondary containment trigger. Modifications, such as moving dispensers to new locations generally require replacement of the entire piping run to the dispenser or other modified part of the UST system. 4) Few inspectors were able to provide costs, as there is such variety in repair/replacing underground piping, depending on size of facility, location and design, and type of piping. Roughly, one inspector estimated $14,000-$80,000 to replace piping, depending on the length of each piping run.
	Unknown for all.
	Data not available for UST systems in State.
	1) Don't know. 2) Don't know. 3) Don't know. 4) Don't know.
	Virtually all UST systems in State are within 1000 feet of a community water system or a potable drinking water well. Specific figures are not available. State currently has 75 active kerosene tanks registered, which make up approximately 7% of its total federally-regulated UST population.
Are there regulatory incentives that EPA should consider to encourage owners and operators to move toward secondary containment? If yes, what are those incentives?	The only effective incentive would be failure to obtain FR on an existing single-wall system.
	Yes. EPA should establish a compliance date for ALL UST systems to meet secondary containment requirements. Without a mandatory upgrade date, the proposed requirement in a disincentive to replace aging tank systems which may result in more releases in the short term.
	As we understand the proposed rule, the cost of performing the proposed 3-year testing may discourage operators from switching to double-wall systems.
	Most tanks and piping installed since mid 1990's are double-walled.

	Most states already have secondary containment to meet Grant Guidelines, but don't know many incentives to make tank owners want to replace tanks before their useful lifetime other than the federal government would pay the cost of clean up any contamination if they removed single wall. Not sure that's even doable.
	Not that we are aware of, unknown.
	Not sure
	No
	Not aware of any regulatory incentives that EPA should consider.
In addition to the three types of piping identified for exclusion by EPA, are there other types of piping for which secondary containment is impractical or unnecessary? If yes, what are those types and why is secondary containment impractical or unnecessary?	We do not understand why there is an exclusion for the three types of piping for new or replacement pipe systems. The State has significant experiences with leaking underground pipe in hydrant systems and pipe associated with field erected tanks.
	We have required double-wall piping for new pressure or safe suction installations with the exception of syphon or manifold single wall non-metallic piping. Those systems that may want to convert at a future date from suction to pressure will already have secondary containment. We allow variances for single wall airport hydrant systems and agrees with EPA to not require SC of this piping.
	Most emergency power generators use copper piping. Sometimes it can be installed in a chase pipe, but the type of chase pipe may not conform to UL 971 (PVC chase pipe). But the chase pipe will fullfill the corrosion protection to keep the metal away from soil. It would not qualigy for interstitial monitoring unless the chase pipe meets UL 971.
	Siphon and non-pressurized piping that manifolds 2 or more USTs together should also not require secondary containment. The exclusion for "suction" piping should only be allowed for suction systems where the only check valve is under the dispenser and there is no foot valve at the tank (suction safe). In both of the above piping situations a pipe failure would allow the product to drain back to the tank. That would not be the case if there is "foot valve" in the tank which would cause the product to remain in the piping and leak out at the point of the failure.

	No
	No
	No, every other pipe should have secondary containment and secondary containment monitoring, and the ones listed should as well. If airport hydrant systems or field erected tanks, suction systems, or other pipes never leaked, we would agree, but they all do.
	State is not aware of other piping types that should be exempted.
Other comments?	It is not clear if tank-top sumps are required under the secondary containment regulations. The State infers that, due to the requirements to install double wall product piping and to provide interstitial monitoring of double-wall piping, they would be required. We strongly encourages EPA to be more specific about the need for tank-top containment sumps. Furthermore, EPA is encouraged to be specific about when these sumps must be installed on existing UST systems.
	EPA again changed after states changed their regulatins to met the guidance documents. This is a major "headache".
	1. Please consider requiring either verification by visual inspection or replacement of all product piping at the facility when steel piping has failed due to corrosion or when flex piping has failed due to permeation/degradation. In these circumstances, if one line has failed and all lines were installed at the same time, it is reasonable to expect similar condition for all piping. Replacement could prevent additional future releases. 2. We suggest a piping repair that would trigger replacement of entire piping run with doublewall should be considered on a per tank basis instead of per STP. We track all compliance in our database per tank, so if we had single wall with one STP and doublewall with another STP on the same tank, it would be much more difficult to track or enforce.
	We are concerned that the use of the word "or" in sections 280.20(a)(5) and 280.20(b)(4) (page 71764) makes secondary containment for UST systems installed after the effective date of these regulations appear optional, despite the language to the contrary at the beginning of section 280.20(a). We recommend removing the "or", or changing the numbering of these sections to clarify.

	Since EPA did not initially promulgate regulations to satisfy the Energy Policy Act requirements, and the states were required to develop their own regulations, EPA should add, pertaining to each Energy Policy Act requirement, at the appropriate places in the body of the regulations, the phrase, “or as required by the implementing agency". This would greatly benefit implementing agencies that have already enacted statutes or regulations that may differ from the proposed federal regulation revisions. In the November 18, 2011, Federal Register, page 71756, EPA states its intent as: “In proposing those requirements (EPACT requirements), EPA does not want to supersede programs states developed to meet Energy Policy Act requirements. Requiring states to alter newly implemented provisions would be a disservice to them as well as UST owners and operators. Therefore, EPA is proposing to address in today’s SPA regulation proposal the secondary containment, manufacturer and installer financial responsibility and installer certification, delivery prohibition, and operator training requirements that appear in the Energy Policy Act. So, states already meeting these Energy Policy Act requirements need not change their programs to receive SPA”. However, for implementing agencies which are barred from being more stringent than federal requirements, EPA's current proposal for Energy Policy Act requirements will result in exactly the opposite of EPA's stated intent not to supersede state programs already in place. Unless the regulatory language is broadened to include the implementing agency's program requirements, states which are prohibited by state law from being more stringent than federal law will not be able differ from the proposed language. By adding a provision within the rule recognizing the implementing agency's flexibility to implement the requirements differently, not just by discussing EPA's intent in the preamble, EPA will not supersede programs previously developed by states to meet the Energy Policy Act.
	We included ground water in its 1,000 foot rule trigger for secondary containment as the vast majority of our residents depend on ground water for their drinking water.

	We do not recommend a percent of piping replacement to trigger secondary containment, as many older systems, and systems that have changed hands several times, do not have good sets of plans. Determining and calculating a percentage of piping will be a battle. We recommend an easily-measured amount of piping, such as 5 feet, to trigger secondary containment. We believes EPA's generous 50% will not effectively encourage owners and operator to replace and secondarily contain old piping, but to claim they are only replacing 45% so do not trigger secondary containment. As secondary containment is extremely effective at preventing releases, and as most releases come from piping, the trigger should be more easily reached (than 50% piping replacement).
	We agree that dispensers are a major source or releases and that under-dispenser containment should be required on all new dispensers, but only if the connecting equipment (shear valves, shear valves, unburied risers or flexible connectors) is replaced or installed. Rather than just discuss this in Preamble language, we would like EPA to clarify this more in §280.20(f)(1), to specifically state the secondary containment is not required if an owner/operator replaces just a dispenser but not the connecting equipment.
	It is not clear if tank-top sumps are required under the secondary containment regulations. We infer that, due to the requirements to install double wall product piping and to provide interstitial monitoring of double-wall piping, they would be required. We strongly encourage EPA to be more specific about the need for tank-top containment sumps. Furthermore, EPA is encouraged to be specific about when these sumps must be installed on existing UST systems.
	Section 280.96 (a) (1)(page 71769) Without a comprehensive definition of what qualifies as "continuous monitoring" it is difficult for states and stake holders to comment on the regulatory requirements of this section.

Section 280.96 (page 71769) Question: Why does the section for tanks (a) (1) specify just "continuously monitored" but the section for piping (a) (2) and (a) (3) specifies "continuously monitored using vacuum, pressure or a liquid filled interstitial space"? Does this mean a 2nd contained tank may use a liquid sensor in a dry interstice @ atmospheric pressure and not be subject to the periodic testing of the 2nd containment in this section? If so, Why? (Does question also pertains to 2nd contained spill buckets and/or containment sumps monitored with sensors)
Section 280.36 - Does the requirement for periodic testing of interstitial areas being utilized for interstitial monitoring apply to only new tanks and piping or also to existing tanks and piping? If it applies to existing tanks and piping what about systems that were installed with no provision for isolation of the interstitial space for the purposes of integrity testing?
The Regulations do not appear to address release detection in UST systems that utilize a liquid sensor in a dry interstice @ atmospheric pressure. Part 280.43 does not address this scenario for the purpose of release detection. Part 280.43 (g) (4) address systems utilizing continuous VPH
We recommend adding language to 280.43(g) to direct readers to 280.36 and to clarify that secondary containment periodic testing requirements apply to all secondarily-contained UST systems, regardless of their installation date. This language would further connect interstitial monitoring for the purposes of secondary containment with interstitial monitoring as a release detection method.
Page 71715, IV.A.2. Interstitial monitoring is typically conducted in the tank top sumps. Containment for STP sumps needs to be required for interstitial monitoring to be effective.
If you are requiring under-dispenser containment to be liquid-tight on all sides and penetrations, a testing protocol must be referenced.
Page 71717, IV.A.2. If 75% of states are more stringent than the 50% threshold, then EPA needs to be consistent and be more stringent than that as well.
EPA should consider a piping run to be from junction/terminus to junction/terminus. For example, from STP head to a single dispenser, from that single dispenser to another dispenser, from a dispenser to a transition box – anywhere where the piping could be easily replaced because it is segmented.

	If an owner chooses to install a secondarily contained tank or piping that was previously installed it must meet new performance standards…..recommend putting in a manufacturer certification clause in here to simplify the process.
	EPA says it is proposing periodic testing of the under-dispenser containment in section B-4 but that is only if the UDC is used for interstitial monitoring. Much of the secondarily contained piping is connected by crossover tubing and therefore the UDC sump is not used for interstitial monitoring and will never be tested. This may be a loophole that many will use. Recommend requiring all UDC installed after effective date of the rule be subject to the new secondary containment testing regulations.

B. Additional Requirements for Operation and Maintenance	Responses
1. Walkthrough Inspections (71718 - 71720)	
Is a 30 day inspection frequency an appropriate time frame for owners and operators to conduct walkthrough inspections?	Yes, although if they have electronic sump sensors (product and water) every 6 months opening the sump would be satisfactory
	Yes
	Monthly walk-through inspections are too often, every 6 months is recommended.
	This is too frequent. Quarterly is more practical, but monthly is overkill.
	Yes, but I would allow an exemption for snowbound areas. We have radio, cell phone towers in the mountains that are inaccessable during the winter.

	With some exceptions: There are emergency power generator facilities in State that are not accessible during the winter months (6-8 months) (e.g., communication repeaters on mountains). The National Park Service here has unmanned sites that store fuel year-round for emergency purposes; these are only accessible by snow machine 4 or 5 months out of the year. The Department of Defense has 20 high-security sites in the State and 160 sites total in the State and nearby States that require clearance each time an operator accesses the tank system. If a monthly inspection is required, DoD personnel have told us they will need to hire two full-time inspectors, with their only responsibility being to perform monthly inspections. All of these unmanned, remote, or high-security systems have double-walled tanks, alarms that detect a release and report back to a manned center, and suction piping that drains to the tank in the event of a line release. We propose an exemption for unmanned, rural sites and sites at high-security facilities provided the tanks and piping are double-wall, the monitoring systems are programmed to immediately notify the owner/operator whenever an alarm conditions exists, and all piping is suction piping that drains back to the tank in the event of a release. For these sites exempt from the monthly inspection, the Class A or B operator must perform a visual inspection of the spill buckets within 10 days of a fuel delivery and remove all liquid and debris from the spill buckets. For these sites exempt from the monthly inspection, an annual walkthrough inspection must be completed.
	This may be an excessive requirement. It is unlikely owners/operators will be opening 3 ft manway covers and opening 20 dispensers when they have continuous monitoring.
	Yes.
	Yes, coincides with release detection requirement.
	Yes
	Yes
	The State agrees that a 30 day time frame is appropriate for walk through inspections.
	Yes
Is it reasonable for owners and operators to begin conducting walkthrough inspections immediately after the final UST regulation becomes effective?	Yes, it doesn't make sense to have it phased in.

	Yes
	Walkthrough inspections should be effective one year after the effective date of the regulations. States will need time to educate, create forms, update their databases to track compliance, etc. Owners will need time to prepare log sheets, train staff, etc.
	Yes
	There should be a phase-in period of one year. Regulators have to prepare for this, develop forms for these inspections. Immediately is not practical.
	Yes
	Yes
	It may be better to allow the feds and states time to get education to the owners first. One year of education with cerating focus sheets to mail out to owners on the new requirements first.
	If forms are provided in a checklist format so that owners will know specifically what equipment must be inspected.
	We agree that it is reasonable for owners to begin walkthrough inspections immediately after the final regs are effective.
	There should be some sort of grace period to let people know of this requirement and to let O/O set up their walkthrough program.
	Yes; they are not expensive, and should be part of a trained certified A/B operator's duties.
	Yes
Is specialized training required for individuals completing walkthrough inspections? If yes, what should EPA establish as the extent of the training?	Specialized training is not necessary to perform PEI 500 & 900 periodic inspections. Performing the functionality tests require specialized training
	Yes, having the owners perform monthly walk-through inspections is highly dangerous. They must purchase safety cones, vests, spark-free tools, gloves, etc. This will also be an increased expense.
	The State believes the Class A or B operator should conduct the walk-through inspection.
	Ideally, the Class B operator should do this, but I don't feel that EPA needs to prescribe minimum qualifications for this- leave that for states to do if they choose.
	No

	The State does not require specialized training for individuals completing walk through inspections, it is reviewed with the O/O at the time of the 3 year inspection and it is covered under the required operator training.
	Operator Training requirements should cover most, if not all, of the training needed.
	Yes, class B UST operator training.
	Our operator training modules review and identify the equipment that would be inspected, so specialized training should not be required.
	Class B operator level seems appropiate or at least they should be responsible to train this person.
	There should be a minimum requirement for the people doing the walkthrough so we can be assured they know what they are looking at, or for, in their system.
	Some training is required - all these items should be covered in any approved A/B Operator training.
	No
Are there other codes of practice that should be included for conducting walkthrough inspections?	PEI 500 & PEI 900
	Yes, the more guidance the better
	No
	Don't know
	No
	PEI RP500 Recommended Practices for Inspection and Maintenance of Motor Fuel Dispensing Equipment.
	We support the use of PEI RP 900 for walk through inspections.
	No
Is requiring owners and operators to keep the most recent year's worth of records sufficient?	We have found that for the UST side of the program a year's record keeping is adequate. On the LUST side of the program we are finding that release investigations would be served better by having some records, such as inventory control, over a longer period of time.
	With a three year inspection cycle, 3 years makes more sense.
	Yes
	Yes
	Yes

	Yes
	Yes
	Yes, we require 12 months for most all records, including rectifier readings.
	We recommend retaining these records for at least three (3) years to coincide with the mandated compliance inspection frerquency.
	Yes
	At a minimum. We suggest they keep their last 2 years worth of records.
	Yes
Are the items EPA proposes checking appropriate? Should EPA add aything? Are there checks EPA is proposing that should not be required?	The proposed checks are adequate for non motor vehicle fueling systems. PEI 500 and 900 should be the mandate for motor vehicle fueling systems.
	Why duplicate the corrosion section for checking the rectifier and record keeping? Same with the release detection recordkeeping.
	Yes the items are appropriate. EPA should not add any items and there are no items that should be removed.
	It is going to be difficult for tank owners to check sumps on a monthly basis. Lifting covers and sump lids is a considerable job, takes time and interferes with business at a retail facility. It poses considerable risk to the person checking the sumps and the motorist. It is nearly impossible to do this in a safe manner without going to a considerable effort to secure the location. Most people are not going to do that, so either these inspections will not be done, or accidents will happen as a result of doing them. EPA should consider the necessity and benefit of doing these on a monthly basis before making it a requirement.
	This may be an excessive requirement. It is unlikely owners/operators will be opening 3 ft manway covers and opening 20 dispensers when they have continuous monitoring.
	Yes, include monthly release detection, water in tank, rectifier, spill containment manhole, sub pump manhole, dispenser pans.

	No, I stongly recommend against tank operators opening turbine sumps monthly. I suggest you delete this requirement and add an annual sump check by a tank service provider. This equipment was not designed to be opened frequently. This is very dangerous for uncertified persons to be opening large metal manways in the paths of cars. Even certified personnell have been run over and hospitalized. It is very rainy here, and most sumps are designed to be liquid tight, so when you open them, you may break seals and a tank operator would not be able to make it tight again.
	We agree with the items EPA is requiring be checked during the 30 day walk through inspection.
	We would recommend that they include visual inspection of fire/shear valves, hoses, nozzles, breakaways, and all sumps/buckets.
	All tank top entry ports including ATG probe and stage I vapor recovery ports should be checked.
	We suggest adding the following requirements to §280.37(a)(1): 1. Check that fill port lid is properly marked; 2. Ensure that caps on ATG risers and vapor recovery risers are tight and in good condition; 3. Check that dispenser sump, turbine sump & trnsition sump sensors are at proper height & orientation; 4. Ensure overfill alarm and overfill prevention equipment are operational; and 5. Check each tank for water.
	What EPA is proposing checking is appropriate.
Should EPA consider not requiring owners and operators to remove water from contained sumps when both of the following conditions exist? 1) Owners and operators choose to connect an anode to the metal components in the sump for corrosion protection, and 2) The sump is not used for intersitial monitoring.	That would be a mistake because contractors would not be as conscientious in the installation of a "tight" system and operators would not be as conscientious in maintenance oversight.
	No

	If EPA suggests removing any liquid in contained areas then they need to provide guidance on what to do with the waste. Water should still be removed if the sump isn't used for interstitial monitoring because residual fuels could leak through penetrations and/or STP equipment could corrode.
	No. Water should be removed to allow for visual inspection.
	Yes. If a sump is not used for IM, it is not required by 40 CFR. Let states address this in their O&M or CP rules.
	Yes, we have high groundwater at many locations that would force replacement of existing poly sumps, because they are very difficult to keep water tight. Sumps installed after the effective date of rule revisions would all be used for interstitial monitoring of piping, so it's likely rigid fiberglass sumps will be installed since they are easier to keep water tight.
	First preference would be to require sumps meet manufacturers instructions and remove liquid if it gets into sumps, and repair leaks. Second preference, only allow 1) 2) on existing sumps, with the assumption, when you replace the piping the sump will be replaced and must remain dry. Allowing water and anode is only a temporary CP method until the piping and sump are replaced.
	We do not agree with EPA. Liquid should be removed from the sumps, regardless of CP protection or use for interstitial monitoring. Liquid in the sump reduces the ability to contain a release, is damaging to equipment contained in the sump, limits the visual inspection capability and impedes the use of interstitial monitoring as a method of release detection.
	No - all liquid should be removed from all sumps. (The word should be "liquid" rather than "water;" We have had owners/operators argue that since our rule required removal of water, that it was ok to leave regulated substances in the sumps.) If a sump has liquid in it, you may not be able to see or check the anode. Also, if a sump has liquid in it, it has that much less space to contain a release; it should be emptied of all liquid.
	No, they need to include this. Removal of water helps prevent the deterioration of equipment, allows easier verification of leaks, helps prevent the release of product to the environment, and here in the northern climes prevents freeze damage.
	No

Other Comments?	Add a definition of "continuously monitored" that would eliminate need for visual inspection of under dispenser containment. If piping is open to sumps and UDC and sensor in every sump, can that be considered continously monitored?
	Delete monthly tank operator turbine sump check.
	Uncontained sumps usually have some sort of soil contamination and contained sumps usually have liquid at the bottom. If EPA is asking for operators to check for “leaks to the containment area” then they EPA needs to provide some guidance on what constitutes a leak in this scenario and what extent of contamination is reportable, investigatable, etc.
	The corrosion walkthroughs for checking the rectifier and record keeping should not be duplicated – it is already required?
	Citing only one State as having success with monthly walk-through inspections is not enough evidence that this requirement will better prevent or detect releases, especially given the added expense. A cost-benefit cannot be calculated because there is no definitive benefit.
	12 states adopting monthly walk-through inspections is hardly enough for the remainder of the nation to be required to.
	Page 71719, IV.B.1. The 1988 UST regulations did not require regulation of dispensers….now is the time to require their regulation. A large majority of releases in Idaho come from dispensers.
	Comment for EPA's consideration: We allow a 90-day sump inspection (rather than 30 days) if the system is double-walled, which provides an incentive to upgrade the system.
2. Spill Prevention Equipment Tests (71720 - 71721)	
Is a 12 month frequency an appropriate time frame for spill prevention equipment tests? For example, should EPA consider more frequent tests in sensitive areas, such as source water protection area?	Adequate. More than annual will have a significant cost impact. I also believe that determining more sensitive areas could become very controversial.
	Yes. No.
	Quarterly testing would be appropriate for source water protection areas.
	Annual testing coincides with other function testing already required.

	It is appropriate
	Yes, 12-months is an appropriate time frame in all cases. However, we question why 12-month frequency is required for spill prevention equipment and 3-year frequency is required for overfill prevention equipment (number 3 below). Couldn't these be on the same frequency...either both on 12-month or both on 3-year? Tracking these tests would be easier for the facility and the implementing agency if both were on the same frequency. We prefer that all test be on a 12-month frequency.
	Yes. 12 months is an appropriate time frame for annual testing. No, more frequent testing is not necessary unlesss there is visible damage to the spill bucket. Test it because it is damaged, not because of where it is located.
	Too frequent for new spill buckets. Prefer, after installation of a spill bucket it needs to be tested at 5 yrs. and annually thereafter.
	Annual testing is appropiate. Spill buckets are subjected to traffic, damage from snow plows, etc. and tend to be damaged frequently.
	We agree with an annual test of the spill bucket. More frequent testing is not necessary since all sites will be inspecting the spill buckets every 30 days, during the monthly walk through inspections.
	We suggest sticking with the yearly test or whatever the manufacturer recommends, which ever is less, to verify the equipment is operating as required. However, based on the other areas of the proposed rules that will require an inspection every three years for those portions of the system, for consistencies sake, it makes sense to have them all either be yearly or every 3 years.
	12 months is an appropriate time frame. We do not identify or protect source water areas, but has groundwater standards that apply to all areas.
	Yes
Are there other acceptable test methods in addition to vacuum, pressure, or liquid spill prevention equipment tests?	No opinion
	Perhaps
	Simple hydrostatic test could be completed without specialized training or certification.
	Don't know.

	We are not aware of any additional test methods for spill buckets.
	We prefer strongly only the liquid test; there are so many penetrations in spill buckets that it is hard to imagine vacuum or pressure tests work.
	No
Is the one year time frame proposed for owners and operators to begin implementing this requirement reasonable?	No matter what time frame is implemented, operators will not do it until the deadline. However, a two or three year phase in based upon the number of UST systems and an operator has in a state is justified. I believe there is more logic to implementation by facility rather than by tank system because it is more cost effective to have a testing contractor perform all the test at a facility, rather than test half the sumps at each facility during the first year this is implemented.
	Yes, already required in the State.
	Yes
	It is reasonable
	Yes.
	Yes
	Yes
	Yes
	Yes, we agree a one year phase in of the spill bucket testing is sufficient.
	Yes, a one year time frame for them to complete this is well within reason and should require very little extra burden upon O/O's.
	Yes
	Yes
Other comments?	Add a definition of "continuous interstitial monitoring" to the rule. There is descriptive language in the preamble that could be crafted into a workable definition. "Continuous interstitial monitoring means the secondary containment space is monitored all the time by a method or device and owners and operators check the continuous monitoring method or device for a leak at least once every 30 days. In addition, owners and operators must immediately respond to any alarms they encounter. Methods of continuous interstitial monitoring include vacuum, pressure, and liquidfilled interstitial areas along with sensors and probes located in the interstitial area."

Page 71720, IV.B.2.	If EPA proposes liquid spill bucket testing then they need to provide guidance on what to do with the waste.
Page 71721, IV.B.2.	EPA should not "anticipate" nationally recognized associations developing codes of practice on how to test spill buckets but first have those and then reference them in the regulations. If manufacturers and nationally recognized associations don't have them, then what?
	We believe there should be a 12-month requirement for function testing of the interstitial monitoring equipment.
	We believe that the inspection intervals for all portions of the system should be consistent with one another to help O/O's comply with the changes proposed to these rules, whether that is yearly, every other year, or once every three years (but no more than that).
3. Overfill Prevention Equipement Tests (71721 - 71722)	
Is a three year frequency an appropriate time frame for overfill prevention equipment tests? For example, should EPA consider more frequent tests in sensitive areas such as source water protection areas?	Annual
	Yes. No.
	The test frequency, record keeping requirement, and phase-in time should be the same as Spill Prevention Equipment. Overfill Prevention is as critical as Spill Prevention, and keeping various "time frames" the same or similar should encourage participation.
	Testing every 3 years is not frequent enough, recommended annual testing. This will coincide with spill bucket testing. Overfill alarms oftentimes have the light go out and/or the sound. Flappers are often tampered with.
	See above. Couldn't the frequency for overfill protection testing be the same as the frequency for spill prevention testing? We prefer all tests be done on an annual basis.
	Every 3 yrs.
	Yes. 3 years is an appropriate time frame for annual testing. No, more frequent testing is not necessary unlesss there is visible damage to the equipment. Test it because it is damaged, not because of where it is located.

	We recommend that the EPA stick with either the yearly or every three year requirement (or manufacturers recommendation) that they have, or are proposing, for other equipment, so that all parts of the system are checked at the same time for consistencies sake.
	We propose annual testing of the overfill prevention equipment , regardless of the area. It should coincide with the spill bucket and annual RD equipment functional tests.
	We do not have enhanced requirements for source water protection areas. Three years is too long. Overfill prevention equipment is very important for preventing releases, and testing it does not post a large cost or burden to tank owners/operators. This should be tested annually.
	Yes
Should EPA consider owners and operators retain overfill prevention equipment test records for a different time frame?	Annual
	We recommend that records be kept for the lifetime of the UST.
	No
	No.
	No
	The last two tests to check for frequency compliance.
	Annual, since the last one should pass or have been repaired. This also keeps record keeping requirements more consistent.
	One year is reasonable
	3 years retention for overfill prevention records is adequate, and coincides with the 3-year inspection requirements.
	These records should be maintained as long as other equipment records are required to be maintained for consistency.
	No
Is the three year time frame and phase-in proposed for owners and operators to begin implementing this requirement reasonable?	Yes
	Yes
	Yes

	Phase in schedules sound nice, but they are a hardship for implementing agencies to track and enforce. Set one compliance date for everyone. What does tank installation date have to do with overfill protection equipment?
	Suggest one year.
	Implement within one year-please be consistent, too many different time frames will be harder to implement and enforce.
	Yes
	It seems to be more than reasonable, as would the one year check requirement that was proposed earlier.
	We propose a one year phase in of the overfill prevention equipment testing , regardless of installation date, or number of USTs.
	Yes.
	Yes
Other comments?	It would seem that the inspection intervals for all portions of the system should be consistent with one another to help O/O's comply with the changes proposed to these rules, whether that is yearly, every other year, or once every three years (no more than that).
Page 71721, IV.B.3.	EPA should not finalize rules without acceptable national codes of practice to reference for testing equipment. If manufacturers and nationally recognized associations don't have them, then what?
	Phase-in dates are unnecessary. Phase-in dates are hard for the implementing agency to track and will require additional work. One final due date is recommended, preferably the "one year after" date.
4. Secondary Containment Tests (71722 - 71724)	
Is a three year frequency an appropriate time frame for interstitial integrity tests? For example, should EPA consider more frequent tests in sensitive areas such as source water protection areas?	Adequate
	We require a 5-year testing cycle, which we feel is appropriate providing there is adequate release detection.

	If interstital monitoring is used for release detection, then it must be checked monthly. If double wall piping is open (not under vacuum, pressure or liquid filled) to all sumps and UDC with sensors in all, and piping is sloped to tank sumps from UDC, then annual sensor function testing is best, especially when the sensors are not monitored by an ATG or the ATG is not capable of an automatic monthly printout (alarm history and sensors normal) and dependent on recording a handwritten "pass" on a form. If monthly monitoring is not documented with printed sensor status and alarm history reports from an ATG, then we require an annual hydrostatic test of the primary piping, but we have not required testing of secondary.
	Yes
	No, make the implementation date the same for everyone
	Annually, but this should be the same for all release detection equipment. Do not call it an "interstitial integrity" check, and do not tell how to do it. This should be covered under "interstitial monitoring", all release detection equipment must be checked per manufacturer specifications and operate per third party certified parameters. The check frequency for release detection equipment should be annually.
	Yes
	Yes
	We agree with the three year test of the interstitial to ensure integrity. Currently, we require three year testing of the sumps but not the interstitial spaces.
	A once every three year check for integrity of the interstice of the system is appropriate without becoming overly burdensome.
	Yes
Should EPA consider owners and operators retain records of interstitial integrity tests for a different time frame?	Adequate
	No
	No
	No
	No
	The last two tests to check for frequency compliance.

	We prefer that all these inspection and function tests be retained for 12 months.
	Six years to show trend and history.
	We propose the test records be kept for the lifetime of the UST. Three years worth of records is not always sufficient when performing investigations.
	Records for these tests should be kept for the same amount of time that records for other tests are kept, for consistencies sake.
	We believe that 3 years is an appropriate time frame for interstitial integrity tests (with the listed exceptions for continuously tested tanks and piping). However, containment sumps and other secondary containment should be inspected monthly for releases (as part of release detection). We do not have source water protection.
	No
Should EPA consider interstitial integrity tests for tanks using continuous interstitial sensors? Should EPA consider limiting this exclusion to discriminating sensors?	Exclusion would be justified for electronic non discriminating (product and water) sensors that are tested annually.
	Other than testing at time of install no. No.
	No; however integrity testing should be completed at installation.
	No. This might be worth considering, but should be left to the states, who can impose more stringent requirements if they choose. We do not allow one sensor for an entire system, so we believe we have a solution that works and does not require secondary containment testing. It is going to be extremely difficult to test some secondary containment areas.
	No, the new testing requirement under 280.40 covers the testing be done per manufacturers instructions on an annual basis. However, it is not clear what you are considering continuous interstitial methods. Tanks continuous: brine filled hooked to alarm; dry interstice w/ liquid sensor hooked to alarm; vacuum/pressure gauge manually logged monthly. What are examples of non-continuous tank interstitial methods? Piping continuous: vacuum/pressure gauge manually logged monthly. Piping not continuous: dry interstice w/ liquid sensor in sump hooked up to alarm (it is actually continuously monitoring).

	Yes, all sensors should be tested annually by a competent person. It should not be limited to discriminating sensors, since it will be easier to implement and enforce. Please note, we do not require double wall sumps/pans are installed with double wall piping/tanks.
	No and Yes
	If the system is utilizing VPH or hydrostatic sensors it is appropriate to exempt these systems from the interstital integrity testing requirement.
	EPA should consider the use of interstitial sensors as a means of verifying the integrity of the systems interstice, as long as the equipment is operating as required. Failure of the equipment should prompt an immediate alternative test of the interstice to verify its integrity. The strict use of discriminating sensors would not be recommended as you want to know if the integrity of any portion of the interstice has been compromised, not just the product side of it.
	3 years retention for secondary containment test records is adequate, and coincides with the 3-year inspection requirements.
	Yes/No
Is there a need for a phased-in schedule to implement this requirement? Is the three year time frame and phase-in proposed for owners and operators to begin implementing this requirement reasonable?	No need for phase in.
	Yes. Yes.
	Please stay with one year to implement.
	Phase-in dates are unnecessary. Phase-in dates are hard for the implementing agency to track and will require additional work. One final due date is recommended, preferably the “one year after” date.
	No. Phase in schedules sound nice, but they are a hardship for implementing agencies to track and enforce. Set one compliance date for everyone. What does tank installation date have to do with the inetgrity of secondary containment?
	Yes.
	Yes so that the requirement can be phased in with the three year third party inspection requirment. It will reduse cost in getting inspectors/workers twice instead of getting it all done at once.

		The three year phase in period is reasonable and would be recommended so that O/O's can budget for this and be able to hire people to do this as needed.
		We support a three year phase in period for all USTs based on installation date.
		No - continuous interstitial monitoring is variable and can be liquid (bring) filled, bacuum or with pressure. If the insterstice is holding vauum or pressure, or brine levels remain constant, then further testing is unnecessary as the continuous monitoring method is operational.
		Reasonable
		The three year time frame and phase-in proposed is reasonable.
Other comments?		We believe that the inspection intervals for all portions of the system should be consistent with one another to help O/O's comply with the changes proposed to these rules, whether that is yearly, every other year, or once every three years (no more than that).
	Page 71722, IV.B.4.	EPA should not finalize rules without acceptable national codes of practice to reference for testing equipment. If manufacturers and nationally recognized associations don't have them, then what?
	Page 71722, IV.B.4.	For containment sumps, do the penetrations need testing? Many containment sumps will fail the test. EPA needs to publish guidance on what is an acceptable repair.
	Page 71723, IV.B.4.	EPA needs to clarify if only the containment sump that is used for release detection needs testing or if all containment sumps need it. For example, the interstice of the piping drains back to the STP sump. Do the dispenser sumps need testing if the interstice is connected between that dispenser fitting to allow it to drain into the STP sump?
	Page 71723, IV.B.4.	Testing the interstitial space of many piping systems will be difficult if not impossible and/or extremely expensive. Once the dispensers and/or STP are installed, accessing the interstice becomes a great challenge. The expense comes when this equipment needs to be dismantled to access the interstice.
		Requiring integrity testing may discourage owners from upgrading to double-wall systems.

	EPA seems to consider electronic sensors connected to an ATG and continuously monitoring for a release NOT to be "continuous monitoring". We have a major problem with that notion since we DO consider such sensors to be continuous monitoring, and nearly 100% of the secondary contained systems installed since our secondary containment rules became effective in 2007 use electronic sensors. Almost no one is using vacuum or hydrostatic methods to monitor secondary areas.
	Please define continuously monitored.
	Yes, a phased-in approach, based on age of system, is needed. The proposed 3-year phased-in schedule is adequate.
	Does EPA consider the use of continuous monitoring with interstitial sensors an acceptable method of verifying the integrity of the interstitial space if the sensors must undergo an annual functionality test and the sensors are part of an automatic tank gauge system that must be inspected and tested by a certified technician once a year?
280.36	
280.36	What is EPA's definition of "continuously monitored"?
5. Operation and Maintenance Requirements for Release Detection (71724 - 71725)	
Are the proposed minimum operation and maintenance requirements sufficient to cover release detection equipment on regulated UST systems?	We believe the rule should specifically state "functionality testing" rather than simply a "test." We have found tests that verify electrical circuitry, but the device still did not function with the precision as the manufacture intended.
	Yes
	Yes
	Line leak detectors need to be tested at 3 gph and not just their ability to detect a leak. It is common practice in the field, under direction from EPA, that line leak detectors do not need to be tested at 3 gph, except when first installed, but just need to “trip” for future testing.
	Yes
	Yes. We strongly support these O&M tests and checks and believe it will improve the operability of leak detection equipment. This should have been in place in 1988.
	Yes

	Yes, but my concern is, it is too much. Past history of another agency doing this, showed such a long checklist over time is just checked off and initialed. Annual service provider checks is found to be more effective.
	Yes, as long as they require repair within 30 days if found defective or inoperable.
	Ok
	We already require and agrees annual testing of the leak detection equipment is appropriate.
	Yes
	Yes
Are there additional performance tests EPA should consider?	No
	No
	We are not aware of any additional performance tests that should be required.
	Yes, the annual testing requirement of mechanical and electronic components to ensure proper operation ensures that release detection is operating as installed. RD is critical to preventing releases, so annual (rather than 3 year) testing is needed.
Other comments?	280.40 (a) (3) Testing of release detection equipment should be allowed only by *certified technicians* . Amend regulatory language ……"and electronic and mechanical components are tested for proper operation *by a certified technician* …..
	280.40 (a) (3) Testing of release detection equipment should be allowed only by *certified technicians* . Amend regulatory language ……"and electronic and mechanical components are tested for proper operation *by a certified technician* …..
	EPA should not finalize rules without acceptable national codes of practice to reference for testing equipment.
	Do not require turbine sumps to be checked monthly. Only a certified service provider should do this annually.

C. Addressing Deferrals	Responses
1. Emergency Power Generator UST Systems (71725 - 71726)	
Is EPA's estimate of 3 percent for UST systems storing fuel solely for use by emergency power generators accurate?	In State, its slightly over 2%
	We do not track this data.
	Don't know
	We have less than 1% registered as emergency generator tanks.
	About 14% of active USTs here are used to store fuel solely for emergency power generators.
	In State, we estimate ~ 5%.
	Approximately 4% of our federally-regulated UST population power emergency generator systems.
	We agree this is a reasonable estimate.
Are there technical concerns EPA should address in requiring release detection for emergency power generator UST systesm?	We have not deferred Emerg Gen USTs and find them suitable for maintaining the CFR requirements
	No
	No
	No.
	Not allow SIR as option for emergency generator tanks.
	Yes, it should be made clearer the automatic line leak detector can go to alarm only. It is not necessary to restrict or shut off flow to a hospital, etc.
	We are unaware of any technical concerns EPA should address.
	Don't know
	As the piping is not always charged, this will affect how well particular release detection methods work. Depending on system configuration, the system might require the installation of anti-siphon valves. Some emergency generator systems include above-ground "day tanks" that may involve some aboveground piping elements, which may or may not be continuously pressurized.

	Many of these systems have continuous fuel loops that do not allow ATGS to properly check for a leak, as there is no quiet period. Therefore, older single wall systems would not have a feasible form of approved leak detection
	We dealt with a situation related to release detection for pressurized piping on emergency generator systems. NFPA 37, *Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines,* states that , "The overflow [return] line shall be continuous piping, without valves or traps, to the source tank or collection system. As a result of complying with this requirement, pressurized piping on these systems cannot be properly isolated for precision testing. Alternatives methods of post-construction and annual piping release detection must be used.
Is EPA's estimate of 30 percent installed release detection on UST systems storing fuel solely for use by emergency power generators accurate?	They all have it in the State.
	No opinion.
	We do not track that data.
	50-60% are registered with leak detection in our database
	We require leak detection on all emergency power systems.
	In this State - 50% to 60%
	We estimate 50% of it's e-gen tanks have installed release detection.
	Don't know
	State EPGs regulated since 1991. 100% have release detection, about 90% with an ATG or interstitial, the other 10% a sticking method.
	We would be unable to verify this. Older systems were not required to have leak detection, but some did install it. Systems in the last 3 years have been required to install it.
	We have required release detection for emergency generator UST systems since January 1, 2009. It is our belief that most, if not all, emergency generator facilities in our jurisdiction have tank release detection installed. We do permit the use of annual tank tightness testing for emergency generator USTs, but most facilities use automatic tank gauge systems or interstitial monitoring.

How many UST facilities have 10 or more emergency power generator UST systems? Who owns these facilities?	We find that facilities with more than a few Emer Gen systems have AST fuel supply for most of the systems.
	We have a university and 3 military installations that may have more than 10 EG's.
	We do not track that data.
	We only have one hospital facility with 9 tanks.
	No facilities in the State have more than 10 of these systems.
	Don't know
	Local/national hospitals, phone companies
	None.
	We are not aware of any UST systems that meet this criterion.
	We cannot verify the number at this time; however, we may be able to query our storage tank data base to find this. Most likely, though, we do not have any.
	We are not aware of any facilities in its jurisdiction with 10+ emergency generator UST systems. It is, however, aware of sites with 4 or more UST systems for emergency power generation. These facilities are critical data centers for banking institutions, and have multiple, fully-redundant UST systems using pressurized product lines to supply standby generators.
Other comments?	Page 71726, IV.C.1. Notification is already required for emergency generator systems, they are still regulated, only currently deferred. Notification is unnecessary.
2. Airport Hydrant Fuel Distribution Systems (71726 - 71731)	
Are the release detection options and time frames appropriate and sufficient?	Yes, we have three airport hydrant systems already under the requirement
	Yes, initial testing and required upgrades should be possible within 3 years, and then annual testing would be completed after that.
	Airport hydrant fuel systems should not be allowed to follow different regulations than other regulated tanks. If they are a concern to the environment, enough to be regulated, then they should not be exempt from the traditional requirements.

	We have little experience with airport hydrant systems, we defer all questions in "C.2" to states with more experience. We are having some difficulty understanding the definition of airport hydrant fuel systems, and whether some of our airport and military air base systems would fit within the definition. Some of these systems have large ASTs (greater than 250,000 gallons) with 10-15 miles of underground piping (of unknown dimension), so it is unclear if the system would trigger the 10% underground for a UST system rule.
	We feel that the release detection methods are available and affordable and should be required on AHFS. The time frames appear to be appropriate.
	Something is better than nothing, but it would be nice to see a little more regulation for these systems, sooner rather than later.
	Yes
Is the performance requirement of three gallons per hour at 10 pounds per square inch line pressure within one hour or equivalent proposed for line leak detectors for bulk piping appropriate?	Appears to be adequate
	It is fine. This would be a good time for EPA to clarify the intent of "three gallons per hour at 10 pounds per square inch line pressure within one hour".
	We have no expertise in this area.
	How much fuel can one of these large lines lose in the time a leak could be found? And they do/will leak.
	Yes
Should EPA consider including specific requirements for non-pressurized piping tightness testing methods such as chemical marker methods? If so, what should those requirements be?	Subjecting them to a pressure test every 5 years would be reasonable
	The chemical marker testing should be considered valid for release detection, either monthly or on an annual basis.
	We have expertise in this area.
	Unknown
Are there other release detection options EPA should consider?	Unknown

	No comment
In order to address potential concerns associated with over pressurizing bulk piping systems, EPA proposed testing at the system's operating pressure instead of above it. EPA understands there are industry standards that recommend testing above operating pressure. Is testing these systems at operating pressure sufficient? Please provide specific detail to accompany your answer.	We have found operating pressures to fluxuate, most recently a system that was 15 psi above what it was assumed to be operating.
	Use those methods approved by National Work Group Leak Detection Evaluation in accordance with the testing protocols.
	Yes.
	No comment
	Unknown
Is the definition of airport hydrant fuel distribution system clear and appropriate?	Yes
	It needs clarification.
	Yes
	After reviewing the Scenarios in the "EPA Draft Internal Deliberative", it could be simplified to include all underground portions of the fuel distribution system.
	No.
	Yes

	We propose the attached amendments to the definition of airport hydrant fuel distribution system in order to clarify the scenarios under which a hydrant system is regulated. Furthermore, We request definitions for the terms "bulk", "bulk underground storage tank", and "bulk line/piping" in order to clarify when requirements apply to such systems. *Airport hydrant fuel distribution system means an UST system that is a combination of one or more tanks directly connected to underground hydrant piping used to fuel aircraft. These systems do not have a dispenser at the end of the piping run, but rather have a hydrant (fill stand). If an aboveground storage tank (AST) is feeding an underground intermediary tank or tanks, this definition does not include the AST, but does include all underground piping entering and leaving the underground intermediary tank(s) ~~and the intermediary tank(s)~~ . If a bulk underground storage tank is feeding an underground intermediary tank or tanks, this definition does not include the bulk underground storage tank, but does include all underground piping entering and leaving the underground intermediary tank(s). Underground ~~I~~ i ntermediary tanks are those tanks directly connected to the hydrant piping.*
	Since an airport hydrant fuel distribution system can have both aboveground and underground storage tanks, it would be clearer if the intermediary tanks were defined as being underground.
	Why does the phrase, “but does include all underground piping entering and leaving the intermediary tank(s) and the intermediary tanks(s).”, have the second clause, “and the intermediary tanks(s)”? It is confusing and redundant.
	In the EPA Docket ID EPA-HQ-UST-2011-0301-0184 titled “Airport Hydrant Systems Scenarios-USEPA Draft Internal Deliberative” Scenario 4 states that a bulk underground storage tank which feeds underground hydrant piping is not considered to be part of the airport hydrant fuel distribution system. It would be clearer if this was stated in the definition for an airport hydrant fuel distribution system. It is stated in the definition for an airport hydrant fuel distribution system that ASTs are not considered as part of the definition.

Are you aware of any releases from airport hydrant systems? If so, what were the sources, causes, and impacts to the environment?	Yes. Very significant release contamination. Source was the connections, elbows, etc.
	Yes. Equipment failure. Impact typical of other large volume releases.
	No
	Yes. Piping corrosion and joints or union leaks. Tanks from corrosion and overfill valve failure (remote fills, valves at tanks).
	There most likely were releases from airport hydrant systems, but without more research, time and effort this cannot be verified.
	Not aware
	Yes. An Air Force base has experienced a major release from the AHFS in the 1990's. It it still undergoing remediation.
	No
Should EPA consider revising the date in 280.73 for previously deferred UST systems? Revision of this date would mean that these UST systems closed prior to the effective date of the final rule would not have to meeting Subpart G unless the implementing agency directs otherwise based on a current or potential threat to human health and the environment. How many of these UST systems have been closed since December 22, 1988?	Leave as is; current language gives the state discretion.
	No. Although threat may be lower due to remote location at large facilities, we find hydrant systems at smaller airports as well, which may be closer to sensitive receptors. Another consideration would be higher potential for leaks because they have not used release detection in the past.
	No. The number of previously closed UST systems since 12/22/88 is unknown in this State.
	We concur with revising the date in 280.73 for previously deferred USTs.
Other comments?	Note: in our State, most airports have ASTs.

	In the diagram of AHFS Scenario #4 the first intermediary tank is not directly connected to the AHFS, it is connected to a second intermediary tank. Based on EPAs explanation of an AHFS the intermediary tank must be directly connected to the hydrant fuel system. Therefore how is the first intermediary tank part of the hydrant fuel system?
Page 71727, IV.C.2.	Airport Hydrant fuel systems should be regulated but eliminating their deferral will be an extreme financial burden for the implementing agency. If there is no increase in monies to regulate such systems (training personnel, updating databases, inspections, enforcement, etc) in LUST Prevention and/or UST STAG grant funding then removing the deferral should be reconsidered.
3. UST Systems with Field-Constructed Tanks (71731 - 71735)	
Are the release detection options and time frames appropriate and sufficient?	Yes
	Three years is adequate to implement release detection and complete upgrades.
	Field-constructed tank systems should not be allowed to follow different regulations than other regulated tanks. If they are a concern to the environment, enough to be regulated, then they should not be exempt from the traditional requirements.
	Something is better than nothing.
	We feel that the release detection methods are available and affordable and should be required on FC USTs. The time frames appear to be appropriate.
	We have little experience with field-constructed USTs, we defer all questions in "C.3" to states with more experience.
Are there other release detection options EPA should consider?	None Known
	No comment
Are you aware of any releases from UST systems with field-constructed tanks? If so, what were the sources, causes , and impacts to the environment?	Fuel oil releases from cracks in cement field constructed USTs; tank size and configuration did not accommodate leak detection.
	No
	Don't know.

	Question for technical department?
	No
	None Known
	None Known
Is the proposed time frame for implementing the requirements for UST systems with field-constructed tanks reasonable? If not, please explain why.	Adequate
	Yes
	No experience with these tanks, but should be similar to hydrant system requirements.
	Yes
	We concur although we have no systems which will be affected by the requirement.
	Yes
Should EPA consider alternative options for closing very large UST systems in place? For example, should EPA consider requiring removal or allowing closure in place without filling the UST?	Adequate
	Yes
	Large tanks should not be closed in place without filling; similar to other tanks.
	EPA's current options are fine, but maybe some flexibility could be added by adding language like "..or according to another closure method approved by the implementing agency".
	1" of fuel remaining in a 50,000 gal UST with a 12 ft diameter is approximately 50 gallons. To allow closure in place without filling the UST should be no less protective than requiring removal or filling with inert material.
	No
	We would recommend removal, with an option for a case by case basis review.
	We feel that closure in place without filling a FC UST would not be appropriate.
	Unknown

Should EPA consider revising the date in 280.73 for previously deferred UST systems? Revision of this date would mean that these UST systems closed prior to the effective date of the final rule would not have to meeting Subpart G unless the implementing agency directs otherwise based on a current or potential threat to human health and the environment. How many of these UST systems have been closed since December 22, 1988?	Leave as currently written
	No. Threat may be lower due to remote location at large facilities, but there can be higher potential for leaks because they have not used release detection in the past, and with larger volume, impact can be significantly larger.
	We have a number of previously closed large field erected USTs, now owned by private companies. The date actually closed is unknown. There are appoximately 6 tanks there.
	No. Unknown.
	We are of the understanding that, if the date in 280.73 is not changed for previously deferred UST systems, then these systems would never be required to perform site assesssments or proper closures, even if there is an indicated or confirmed release. We support language that makes Subpart G apply to any permanently-closed UST system. We are anecdotally aware of at least six (6) field constructed USTs that have been closed since December 22, 1988.

Other comments?	We are only aware of one existing field-constructed tank which is currently present in the State (it is for heating fuel for consumptive use, so it is deferred) and it is constructed of steel plate. Currently, there are no known industry codes for the field fabrication of secondarily contained steel underground storage tanks or for the field fabrication of secondarily contained tanks of any other material of construction. A requirement for a secondarily contained field constructed tank without a construction standard is meaningless. It would be a better requirement to state that no more field constructed tanks are permitted to be installed after the effective date of the rule. This should not be a burden, because it is believed that they are not being installed due to the cost, due to FR considerations, and due to the fact that there is simply no need for them. If an UST bigger than a commercially available one is needed, it is more practical to install an AST.
Page 71731, IV.C.3.	Field-constructed tank systems should be regulated but eliminating their deferral will be an extreme financial burden for the implementing agency. If there is no increase in monies to regulate such systems (training personnel, updating databases, inspections, enforcement, etc) in LUST Prevention and/or UST STAG grant funding then removing the deferral should be reconsidered.
280.20 (b) *Piping* does not require secondarily contained piping for new or replaced piping associated with field-constructed tanks.	It is not clear why new or replaced piping associated with field-constructed tanks is not being required to be secondarily contained. If a field-constructed tank is in existence or is installed new there is nothing inherently different about them vs. shop-fabricated tanks which would prevent secondarily contained piping from being installed.
	EPA needs a definition of "field constructed tank" for the end user. EPA seems to know what they mean, but there is no definition anywhere of exactly what a "field constructed tank"is and how it differs from a large bulk AST. Is a FCT strictly an ***underground*** tank? If so, the definition should specify that.
	We are unaware of any field constructed tanks in the state.
4. Wastewater Treatment Tank Systems (71735 - 71736)	

EPA is taking the position that there are no wastewater treatment tank systems affected by this proposal. Are you aware of systems that would be subject to this proposed change? If yes, please provide information about the number and location of wastewater treatment tank systems that would be regulated. For instance are there units associated with natural gas drilling that are not regulated by 402 or 307(b)?	If EPA is taking the position that there are no wastewater treatment tank systems affected by this proposal, why is it being proposed?
	We do not track this information and is therfore not aware of systems that may be affected by the proposal.
	Unknown
	If we are interpreting the definition of wastewater treatment tank correctly and it includes oil-water separators, then we have thousands of wastewater treatment tanks. These tanks are oil-water separators and are found in auto-body shops, manufacturing plants, car washes, federal defense sites, highway districts, etc. The State did include the typical cast concrete oil-water separators in this count. Some of them may be regulated under CWA 402 & 307(b) but the State has verified that at least 100 are not. Additionally, if the tanks were regulated under CWA 402 or 307(b) then the waste oil from the separator would need to be disposed of so EPA should consider adding: "..if they are not part of a wastewater treatment facility regulated under 402 or 307(b) of the CWA or RCRA Subtitle C". More guidance is needed on what types of oil-water separators will and won't be regulated.
	We are not aware of any systems in the state that would be affected by this proposal.
	We are unaware of any such systems that would be affected.
	It is my understanding that all Oil Water separators are regulated by S. 402 of the CWA (NPDES) so I am not aware of other wastewater treartment tanks which are not regulated
	Not aware of wastewater treatment tanks that contain petroleum or a CERCLA hazardous substance. The State regulates many emergency power generator tanks at wastewater treatment plants and those owners have never shown us other USTs at the facility.

	No.
	Our tanks program does not regulate any tanks associated with oil or gas drilling, which are under the jurisdiction of the Oil Conservation Division of the Energy Minerals & Natural Resources Dept. (a different department entirely from the Environment Dept. where the tanks program is located).
	In the preamble EPA proposes to regulate wastewater treatment tanks, including oil/water separators. By including oil water separators in this category there may be systems that are not exempted under the Clean Water Act. Oil water separators that are connected to a septic system do not appear to be covered under Sections 402 or 307 of the Clean Water Act. In our State these systems are permitted in accordance with the Safe Drinking Water Act but do appear to be addressed under the CWA, therefore under the current EPA proposal it appears that these systems would be regulated by UST and the Safe Drinking Water Act. It does not make sense for these systems to be regulated by 2 programs. The regulatory exemption should be expanded to include systems that discharge to on-site septic systems that are permitted under the Safe Drinking Water Act.
If there are wastewater tank systems, is it most appropriate to regulate, exempt, or continue to defer these systems? Please explain why.	No opinion
	Regulate. If a release can be prevented from one of these systems by regulating it, that is preferable.
	Third party certified release detection may be hard for existing single walled treatment tanks that do not have metered or measured input and output. If there is influent and effluent continually moving, how would you conduct release detection without shutting it down and stopping all influent and effluent?
	Wastewater treatment tank systems should be regulated but eliminating their deferral will be an extreme financial burden for the implementing agency. If there is no increase in monies to regulate such systems (training personnel, updating databases, inspections, enforcement, etc) in LUST Prevention and/or UST STAG grant funding then removing the deferral should be reconsidered.

	Defer Oil Water separators- they cannot meet UST rules - spill, overfill, leak detection, CP, FR, etc. They are not petroleum product tanks, and that's where the focus of the program should be.
	Defer?
	Without a clear definition of what oil/water separator systems are included or excluded it is not possible to answer this question at this time.
Should EPA consider revising the date in 280.73 for previously deferred UST systems? Revision of this date would mean that these UST systems closed prior to the effective date of the final rule would not have to meeting Subpart G unless the implementing agency directs otherwise based on a current or potential threat to human health and the environment. How many of these UST systems have been closed since December 22, 1988?	No opinion
	Yes
	Unknown
	Don't know.
	Not Known
	It is appropriate to change the date to the effective date of the revised Regulations to be consistent with how previously closed non-deferred USTs were treated.
Other comments?	
Define Oil/Water Separator or Oil/Water Separator System. The definition of Wastewater treatment tank does not contain any information relevant to oil/water separator systems that EPA now proposes to include in this section.	EPA needs to include a definition of oil/water separators. Specifically is an underground holding tank, that stores oil after the separation process, considered an underground storage tank and thus regulated or is it part of an "oil/water separator system" and thus included in the exemption if it is regulated under the Clean Water Act?
280.20 Page 71763: This comment applies only if there are oil/water separators that will be regulated under the UST regulations.	Would an entire oil-water separator be required to be secondarily contained or just the storage tank?

§280.22 Page 71766 Notification requirements	(a) The notification requirements of this paragraph require owners within 30 days (as per table in §280.10(i) and §280.22(h)) to notify the state of the existence of previously deferred USTs (airport hydrant, field-constructed, and wastewater tanks) either using the form in Appendix I or a state form which collects the information prescribed in Appendix I. Section XI of Appendix I and also in §280.20(e) require that the tank and piping be certified by various methods. This will be extremely difficult, because it was not required at the time of installation because these tanks were previously deferred. Therefore, these records probably do not exist. Also, previously deferred tanks had no regulated installation standards, so what would the owners actually be certifying?
280.12 Page 71762 Definitions needed: "Bulk" Bulk field constructed underground storage tank means.. Bulk line/piping means... Bulk underground storage tank means....	The word “bulk” is used in association with field constructed underground storage tank; with line/piping; and underground storage tank in the Federal Register and the proposed regulations but it is not defined anywhere. Either define the term “bulk” or eliminate the use of the term if a bulk underground storage tank is no different from an underground storage tank or if a bulk line/piping is no different from a line/piping.
280.12 Page 71762 Definitions needed: "Field Constructed"	The word “field constructed” is used in the Federal Register and in the proposed regulations but it is not defined. A definition for field constructed needs to be created.
280.20 Page 71763 Performance Standards for new UST Systems	(a) *Tanks* states that all tanks installed after [effective date of rule] must be secondarily contained. This then would include all field-constructed tanks regardless of their size since a field-constructed tank is not defined. This would include all wastewater treatment tanks.
280.12 Page 71762 Definitions needed: "Flow through process tank"	The definition of “flow-through process tank” uses the words “products” and “production”. Does this mean that if a flow-through process tank is processing a waste or a used material that it is not excluded from the definition of a UST? For example, an oil-water separator.
5. Maintain Deferral for USTs Containing Radioactive Material and Emergency Generator UST Systems at Nuclear Power Generation Facilities Regulated by the NRC (71736 - 71737)	

Comments?	No opinion
	The State has no such facilities in its jurisdiction.
	Maintain Deferral.
	The State does not believe there are any of these USTs here.
	Agree
	Yes; maintain deferral.
	We agree.
	Yes

D. Other Changes	Responses
1. Changes to Overfill Prevention Equipment Requirements (71737)	
EPA considered eliminating or phasing out vent line flow restrictors for currently installed UST systems, but finds the cost burden for owners and operators could be high. Please provide input and information in suppor of or against eliminating or phasing out vent line flow restrictors.	We implemented the 90% alert/95% auto shut-off several years ago. The State's experience is that many of the ball floats are missing anyway, possibly the result of ethanol degradation. We had experienced many overfills where the system was supposed to have functional ball floats. While adding the 90/95 isn't cheap, the cost of removing or raising the existing ball float above the 95% level was insignificant.
	We have already required replacement with flapper valves as ball floats fail, and to require flapper valves for new installs after 2001. We agree ball floats present dangers of overpressurizing tank or release of fuel with suction systems, and they are more prone to failure.
	The State is in favor of eliminating or phasing out vent line flow restrictors because it is difficult to verify whether or not a tank has an overfill device installed when this type of device is used. It is also difficult to verify whether or not the device operates properly. If a tank is filled under pressure, the vent line flow restrictor may prevent venting of the tank, which could rupture the tank.
	We support the phase out of vent line flow restrictors. There are circumstances where they do not provide overfill protection in some piping and delivery configurations even though allowed by regulation. They provide nothing but a false sense of security in these configurations.
	Vent line flow restrictors should be phased out to keep owner cost down.
	They should be phased out upon repair/failure. They pose a safety concern and prohibit the use of coaxial Stage I vapor recovery.

	The State believes that ball float valves are a "weak link" in many tank systems. The proposed requirement for operability testing every 3 years will require the elimination of many ball float valves that are not currently operating properly. If the vent line flow restrictors are accessible from surface grade, then they are easily and inexpensively tested. If a flow restrictors cannot be tested, then another method should be used.While replacing ball floats may require a significant expense for owners/operators, this must be balanced with the greatly improved environmental protection provided. It is much cheaper to prevent a release with good overfill prevention equipment than it is to clean up a release of almost any size.
	The State supports phasing out ball floats as they're often missing or do not work properly. The State requires owners/operators to provide visual verification that overfill equipment installed or replaced on or after 3/01/2003 works properly during inspection.
	Because we do not have a testing requirement, we have very little information on the effectiveness of ball float valves. We do find some missing upon tank closure and have dealt with the various ways they are rendered ineffective.
	My concern is if they install an automatic shut-off valve at 95% and don't remove the ball-float that is set at 90%. This can create a hazardous situation for the distributor. Older tanks may have the ball-float under the vent line buried in dirt and concrete with no access. For new tank installs, no ball-floats. And if the cage breaks and the ball falls into the tank, they can then safely add an automatic shutoff valve or use an exterior alarm.
	The State supports the phase out of ball floats through the enforcement of annual test requirements and subsequent replacement of failed ball floats with alternative overfill methods. New installations should not be allowed to install ball float valves.
2. Internal Linings that Fail the Periodic Lining Inspection and Cannot be Repaired (71737 - 71738)	
Should Epa consider requiring lined tanks be closed when they fail a lining inspection independent of whether the lining can be repaired? If yes, please provide information to support your answer.	If holes or rust plugs are observed.

Yes, liners are inherently ineffective. Repair of an already ineffective system is not productive.
Yes. Internal Tank Lining was an option originally designed to extend the life of a tank beyond the original warranty period. Lined tanks whose lining has failed have probably served beyond their useful life and should be removed.
No, this should be based on science only. A lot of lining inspections end up requiring some form of re-lining. As long as the tank has the correct metal thickness per API 1631 or NLPA 631 repairs must meet the standard codes. Another suggestion is to add a time period of adding an impressed current system to get out of internal lining inspections (i.e. a tank must have an impressed current system added within 6 months of passing an internal inspection, in order to discontinue future internal lining inspections.)
Yes. We have seen widespread lining failure and a higher rate of LUST cases at facilities with lined tanks, where cathodic protection was not added at the same time the tanks were lined. If the exterior of tank has not been protected, and internal lining does not meet original design specifications, then it has no corrosion protection and there is no way to know how long it has been unprotected. After sand blasting again, the metal thickness could be highly compromised. We do not allow relining of tanks, and lining can no longer be used for corrosion protection of a steel tank.
No but the owner needs to immediately go to an alternate corrosion protection method.
In the State all tanks must have cathodic protection.
We question the wisdom of allowing the repair of tank linings, as the failure is usually catastrophic (throughout the tank); in general it is not cost effective to repair the lining, and replacing the tank with a double-walled tank provides far better, more reliable, protection again releases. We had 2 facilities where tank liners failed and caused releases. Both failed the 10-year inspection, and had the tanks "reconditioned;" the reconditioned tanks had holdes and releases less than 5 years later. Both were worked on by a not-reputable contractor. Other tank linings and re-linings done by others have fared better. In general, however, we would prefer to see tank systems replaced when the lining fails.

	The State will only allow repair of a lined UST if the structural integrity of the metal portion of the UST has been determined sound using the integrity assessment method in API 1631. The tank has to be decommissioned if it fails the assessment. That said, we believe EPA should consider requiring these tank to be closed even if the lining can be repaird and would support that requirment.
	Yes, tanks with failed lining should be closed if the lining is the main form of corrosion protection. In the State, as of January 11, 2008, an internal lining may not be installed on a steel tank in order to meet corrosion protection requirements. It may only be installed in a tank that has a properly-operating cathodic protection system. So, the State would not allow a lining to be repaired if it was the primary form of corrosion protection.
Other comments?	Would like to see EPA establish criteria for those lined tanks that have added cathodic protection just prior to the 10 year lining inspection date and the CP has not been maintained for a predetermined period of time - by requiring removal or new integrity assessment. NACE RP 0285 does not address any time frames for inoperable systems and many states have developed their own guidance and criteria for allowed repairs, new suitability or removal.
3. Notification Requirements (71738-71739)	
Is a one-time notification for all UST owners also necessary to effectively administer the UST program in jurisdictions (eight states and territories and Indian country) where implementing agencies do not currently require ownership change notification? EPA is posing this question because of the high rate of UST ownership changes and resulting likelihood implementing agencies do not know who owns numerous UST systems.	Yes
	Yes
	the State requires owner notification.
	Our rules already require 30 day notification of change of ownership by former owner and new owner to try to address this issue.

		If EPA needs this notification for areas outside the areas that have state program approval, we do not have a problem with this, as long as it is very clear that in states that already require this notification, owners/operators do not have to send in duplicate notification. (We don't want to be flooded with information we already have.)
		Yes
		We require ownership change notification and apparently the vast majority of states do. Tank owners in those such states should not have to comply with an blanket notification requirement, not designed for them. Let the states deal with the issue or specify that this requirement only applies in those states and Indian lands with no ownership change notification requirement.
		Yes
		Yes. The State currently requires ownership change notification to the implementing state agency within 30 days of transfer. Based on the frequency of ownership transfers that occur, the State recommends a one-time notification of ownership in jurisdictions where ownership information has not been updated since 1986.
Other comments?		Tester information was deleted from the Certification of Installation section of proposed Notification Of Underground Storage Tank form. This information should be included in the form.
	Page 71738, IV.D.3.	EPA should require notification when a system is put into temporarily out of use status. When they fill out the “date last used” category on the Notification Form it is easier to track the 12 month deadline per 280.70(c)
	Page 71738, IV.D.3.	EPA should require notification 30 days before a tank or piping is installed. For replacement piping, 24 hours is sufficient. If 30 days notice was required, the implementing agency could prevent many costly re-installations. If equipment is installed incorrectly or the wrong kind of equipment is not used (not installing a double-wall), then the implementing agency would know of this beforehand and prevent its install and therefore prevent excess costs to correct the situation.
		30 day notification requirement for previously deferred systems is too short. Suggest 1 year to notify.
4. Alternative Fuels and Compatibility (71739 - 71742)		

How many UST systems currently store petroleum not derived from crude oil (such as natural gasoline)?	None
	The State has very few tanks storing alternative fuels.
	Unknown
	Not known
	None in the State.
	None
	None that the State is aware of.
	We do not have many tanks with alternative fuels, so defers comments in this section to states with more experience.
Should EPA consider allowing professional engineers to make compatibility determinations?	Yes
	Yes, but only if the professional engineer has applicable experience to make such determinations.
	No, listing by manufacturer ensures compliance with industry code or standard when Professional Engineers may not know the qualification or basis of standard approvals. We don't currently have PE on staff to review any variance that may be proposed by Engineer.
	Yes, if they have the professional qualifications to do so
	No.
	Only if the engineer has the necessary training and qualifications to make the determination.
	No. The State does not support Professional Engineers being allowed to make compatibiltiy determinatins fruthermore The State feels this would only be a certification of primary equipment and would not adequaetley address constructon methodology or anciallary material. Compatibility determinations need to be made by the manufacturer or a nationally recognized standard setting organization.

Are there additional methods for effectively demonstrating compatibility? If yes, please provide details.	Compatibility determinations need to be made by the manufacturer. Once the make and model of a component is identified the manufacturer needs to verify ethanol compatibility. It should be noted that identifing every component, gasket, glue etc. used in an existing dispensing facility is impossible. The State does not allow conversion of dispensing systems for fuels beyond the base fuel (E10). Those systems are required to be installed new so compatibiltiy can determined.
	From the manufacturer or an independent laboratory.
	Unknown.
Are there other alternatives to demonstrating compatibility (such as using secondarily contained USTs) that tank owners and operators should be allowed to use, that are no less protective of human health and the environment?	Secondary containment is not "compatibility."
	Secondarily contained USTs should be excluded from having to demonstrate compatibility with alternative fuels.
	No, keep the compatibility requirement for tanks and piping.
	This is emerging science, and compatibility assured by a manufacturer is backed by warranty and acceptance of product liability if failure occurs due to compatibility claim.
	Unknown.
	Secondary containment should not be allowed in lieu of demonstrating complatibility and is not aware of any other alternatives.
	No. The State does not feel that secondary containment is a substitute for compatible equipment and can be less protective of human health and the environment to do so.
Are the proposed criteria for manufacturer's approval reasonable?	Yes
	Yes
	Yes
	Yes.
	Unknown; however, it would appear reasonable to require the manufacturer specify the compatibility testing used in making the determination.
	Yes

	Yes, but only as long as the make and model can be identified. As stated above determining existing UST system compatibility is impossible.
Should EPA consider tiering methods? For example, if an approval or listing from a nationally recognized, independent third party is available, then the manufacturer approval is not an option for that component?	With this concept, who ends up with the liability?
	If equipment is UL listed, why not allow manufacturer approval as another choice?
	Prefer either method, not tiered.
	Unknown.
	No. Both should be acceptable.
	Manufacturer certification is always the preferred method, however in the absence of manufacturer certification, approval from a nationally recognized, independent third party may be acceptable. However it should be noted that warranties may be voided if the manufacturer certification is not available.
Should EPA waive the compatibility requirement for UST systems with secondary containment and interstitial monitoring? Why or why not?	No. How many times have we experienced double-wall pipe that had UL approval have the secondary wall fail?
	No, requiring compatibility standards reduces potential for releases, even in systems with secondary containment and interstitial monitoring.
	No. The secondary containment and/or insterstitial monitoring may not be compatible.
	No, the tank and pipe material must be compatible with the material store it is touching. Breakdown of plastics occurs over time and it could be catastophic when it occurs.
	Yes, see comment above. States can also develp their own standard for compatibility.
	No, double wall tanks have been manufactured for many years. Proving compatibility should be considered as release prevention.
	No. Secondary containment, even with the addition of IM, should not be a substitute for demonstrating compatibility.

	No. The State does not feel that secondary containment is a substitute for compatible equipment and can be less protective of human health and the environment to do so.
While this proposal requires owners and operators maintain records to demonstrate compatibility, we are not requiring owners and operators transfer records to new owners and operators. Should EPA consider requiring records transfer?	Yes
	Yes
	Yes.
	Yes.
	Yes, all records concerning the capabilities of the UST system should transfer to the new owner or better yet, be submitted to the implementing agency. Eventually these records get lost if left with tank owners.
	Yes. It is critical to keep these records for the operating life of the system. Our rule states that all required records must be tranferred at no cost to the new owner.
	Yes
	Yes. When a transfer of ownership occurs all pertinent records should go to the new owners.
Other comments?	For UST systems that were installed prior to the effective date of these regulations and the manufacturer is no longer in business, or the manufacturer or independent laboratory is not willing to test legacy equipment because it is not practical,there must be an option available to tank owners which will allow the continued operation of tanks that do not have manufacturer compatibility documentation. The concern should not be compatibility but rather whether a lack of "compatibility" will lead to environmental damage. Therefore a more practical option for existing tanks that cannot prove compatibility in an ever evolving standard is to ensure that the release detection method in place will promptly detect a release. UST systems that cannot provide compatibility documentation should therefore be required to utilize in-tank release detection systems as opposed to those that allow environmental damage to occur before a release is detected such as vapor monitoring or groundwater monitoring.

	It should not be a requirement for sumps, which do not normally contain product. Release detection equipment must be able to detect the product that is stored.
5. Improving Repairs (71742)	
Should EPA consider changing the time frame for conducting an interstitial, spill, or overifll test from 30 days to before returning the UST system to service?	Yes
	Yes to verify the repairs were effective and the system is tight rather than allow the system to operate up to 30 days possibly leaking.
	Yes, our rules require testing before returning to service in an effort to prevent release.
	Yes; the repaired component should be tested before it is returned to service.
	Yes, prior to operating.
	We believe that any system that is repaired should be tested before it is returned to service. This is the most convenient time, as the system is already shut down and test-ready. If a problem is detected, better to detect before it is returned to service, than allowing a release for up to 30 days.
	Yes
	Yes
	Yes. The State already requires testing before the UST System is placed back into service after a retrofit.
Other comments?	As written, does the entire system need to be tested after a repair or only the repaired portion of the system? It would be reasonable to require only the repaired component to be tested.
6. Phase Out Vapor Monitoring and Groundwater Monitoring as Release Detection Methods (71742 - 71743)	
Is five years for owners and operators using vapor monitoring and groundwater monitoring to switch to another method too short, too long, or an appropriate length?	Adequate
	We have no facilities using this LD method.
	Five years is adequate.

	Five years is too long. We allowed one year for tank owners to move away from GWM and two years for VM, but we had very few systems using those methods.
	One year.
	We do not agree that these methods should be discontinued as valid methods of release detection for tanks. We do not allow vapor or groundwater monitoring for piping release detection.
	It is too long, one year is sufficient.
	It seems to be very generous, but we are not aware of any of these in the State, so defer to states that do.
	We do not have any sites using thes RD methods, but supports a five year phase out.
	Five years is definitely not too short. If anything three years is more appropriate as these methods allow negative impact to the environment.
	We do not have any vapor monitoring or groundwater monitoring systems used as release detection methods, so abstains from comments on this section.
Are there cirumstances at existing facilities that would warrant a subset of UST systems to use vapor monitoring or groundwater monitoring beyond the proposed period of five years. If so, what are the circumstances?	No
	Yes
	No, one year sufficient.
	We have well documented and clearly defined requirements in rules for number, construction, design, depth, and placement of wells and circumstances where these methods are allowable. We also specify acceptable equipment and release reporting levels for that equipment in ppmv. Site assessments must be completed by licensed consultant, and those conducting either vapor or groundwater monitoring must be licensed by our agency.
	Unknown.
	Perhaps large high throughput facilities where CSLD capacity is exceeded, and there are no other leak detection options if there is a means of detecting heavier hydrocarbons.
	No. This is an old technology that allows a negative impact to the environment.
	No comment

Is EPA's assumption of 5 percent accurate for the number of active UST systems using vapor monitoring or groundwater monitoring to comply with release detection requirements?	Unknown. We implemented a prohibition on groundwater and vapor release detection many years ago.
	Less than 1% of tanks in the State use vapor or groundwater monitoring to comply with release detection requirements.
	May be about right, but some of those 5% may already be using another method in addition to VM and GWM. That is what we found when we eliminated VM and GWM as leak detection methods.
	No. The rate is 29 percent in the State. Requiring that number of facilities to change their method of release detection would have a significant financial impact on the regulated community. More defined criteria for utilization of these wells in regulation is needed rather than elimination of their use as a viable release detection method.
	Estimate for the State is approximately 20% use. This is the most cost-effective release detection method available to many of our single location owners, averaging $2,500-$3,500 to complete site assessment and install 2 to 4 observation wells.
	It is probably less than that. The State's rate is 0.1%.
	Only about 3 sites in the State.
	Unknown.
	The State feels that 5% is high.
	Zero
	No comment
Other comments?	No new tanks in the State may be monitored using vapor or groundwater monitoring to comply with release detection requirements. Owners may not switch to vapor or groundwater monitoring on existing tanks.
Page 71742, IV.D.6	EPA suggested a 5-year phase-out but the actual proposed regulations do not support this. Was it missed in the strike-outs?
7. Interstitial Monitoring Results, Including Interstitial Alarms, Under Subpart E (71743 - 71744)	

Comments?	We agree that an alarm during release detection monitoring must clearly be subject to the "unusual operating conditions" requirement for reporting a suspected release, to ensure owners/operators properly follow up and determine whether a release has in fact occurred.
	Based on extensive review, vapor and groundwater monitoring are more reliable than Statistical Inventory Reconciliation, which is used more often in the State. 2. The EPA Draft Document "Evaluation of Releases from New and Upgraded USTs" further supports the use of groundwater and vapor monitoring which were found to have the highest rates of success in detecting a release of all the release detection systems available (which were internal). 3. These two methods are the only alternatives allowed to be used for assessment prior to tank closure in EPA regulation to determine if a leak has occurred. Internal methods are not allowed. 4. As tanks and piping are replaced with double wall systems, releases should be contained.
Page 71744, IV.D.7	Owners should be required to report leaks that are contained in the interstitial space. If it's a leak, it needs to be reported. The definition of "release" should be changed to eliminate the clause about discharging to water or soils.
	This is needed to provide a clear idea of what is required if an alarm occurs and provides better tools for enforcement when O/O's don't respond to those alarms.
	It makes sense to consider an alarm indicating water or product in the interstitial space an unusual operatering condition. For the change adding "including alarms" to monitoring results from a release detection method…, the exceptions need to address failed tests that can be justified (product pumped during test, delivery during test etc.) This is a problem with some of the older ATG systems that are still out there. We require that the owner/operator keep a record of these fails and how they have been justified, but I would not want all of them turned in as a suspected release.

	We believe the proposed requirement to treat any liquid in the interstitial area or any ***alarm*** as a suspected release, requiring reporting and a vacuum, pressure or hydrostatic systems test of that portion of the UST system is a tough regulatory bar to meet and will likely not be done by the tank owner. Many of these components are not going to pass a vacuum or hydrostatic test. Water ingress leaks will be common and will result in alarms. We are not saying that this should not be the standard, just saying that it may not be routinely reported.
	Yes interstititial alarms are an indication of a release and should be investigated and reported.
Continuous In-Tank Leak Detection and SIR (Statistical Inventory Reconciliation) methods listed as new release detection methods	Some states would have to adopt by reference federal language since we don't restate technical standards in state regulation. In order to do so, basic regulatory requirements for these two methods need to be stated in the regulation, not just discussed in the Federal Register background document (i.e., pass/fail call required for every 30 days of monitoring, and inconclusives require another form of approved release detection for that month).
	It is reasonable to not require reporting for alarms from defective equipment or false alarms as a suspected release. The actual breach that would result in a leak in the interstice, even when contained, should be reported as a suspected release. This will ensure follow up to be sure that the investigation was completed and the repairs were made in accordance with appropriate code or standard.

E. General Updates	Responses
1. Incorporate Newer Technologies (71744 - 71746)	
Should EPA require specific performance standards for vacuum, pressure, and liquid-filled interstitial monitoring? If so, what should the performance standards be and why?	What seems reasonable is to require that the recommendations of the manufacturer of the particular product (DW tank, etc.) be followed.
	Yes - manufacturer's performance standards
	Follow approved tests in NWGLDE.
	In accordance with manufacturer requirements. The tank itself would meet a construction standard.
	It might be worth considering. Currently the performance standards are spelled out in the Third Party Evaluations, but some minimum standards in Federal regulations might establish a consistent bar for these methods. The methods are so different that that might not be possible.
	Manufacturer performance standards
	We agree with and support EPA's proposals for these.
	Per manufacturers instructions or third party certification.
	Yes. We concur that EPA should require specific performance standards for vacuum, pressure and liquid filled interstitial monitoring. In the absence of a standard anything is acceptable and may not be adequately protective of the environment. These methods are only acceptable for use as system release detection when used in conjunction with stringent post construction testing methods and standards to ensure adequate operational performance.
Are there performance standards for release detection methods that should be added or removed?	We are not aware of any that should be removed.
	Follow approved tests in NWGLDE.
	We use NWGLDE for release detection methods and equipment.

	EPA should update 280.43(g) to exclude those types of interstitial monitoring that require all the dispenser sumps to fill up with product before it finally travels to the STP sump for sump sensor detection. There is no way to determine if product would make it to the STP sump in 30 days. Exclude it unless each dispenser sump has sensors so it can be detected in 30 days OR the interstices can be connected by tubing that will make the interstices continuous to the STP sump.
	We are not aware of any.
	Agree with EPA.
	We are not aware of any additional performance standards.
Other comments?	From the Crosswalk & Federal Register / Vol. 76, No. 223 / Friday, November 18, 2011 / Proposed Rules- Incorporate Newer technologies: EPA adds newer technologies: clad and jacketed tanks, noncorrodible piping, continuous in-tank leak detection, and statistical inventory reconciliation. We agree with the addition of CITLD and SIR to the acceptable forms of release detection. Currently sites are required to get approval for both as an alternative release detection method.
	SIR is considered a newer technology, but in our experience it has been routinely falsified by using inaccurate stick measurements; resulting in an ineffective as method of release detection. We suggest that vendors be held accountable for processing obviously unqualified data (e.g. passing a tank with too few days for that particular method or daily over and short all zeros) and release reporting. We agree the 150 gallons plus 1% throughput for inventory control can be excessive for high throughput facilities. We have discovered releases when monthly inventory reconciliation exceeded the "math check" and was reported after two consecutive months, while the SIR results for the same period of time receives a passing result. Requiring use of an ATG for collection of data (tank levels and deliveries) could help prevent discrepancies.
Page 71744, IV.E.1.	SIR will not detect leaks in satellite lines where the solenoid valve is positioned improperly. Suggest clarifying language to deal with this common problem. Also suggest addressing SIRs limitation on high-throughput facilities.

Page 71744, IV.E.1.	Under 280.20, strongly encourage EPA to include language that says the original performance standards (design, construction, etc.) must be met for as long as the system stores a regulated system. Currently, the regulations just say "new UST systems". One loophole that states have been experiencing is recalled piping (Total Containment). EPA's decision has been, according to the regulations, that since the piping met performance standards at installation, they cannot force an owner to replace the warped, damaged, elongated piping. If language was added that required the equipment to meet original performance standards for the entire operating life of the system, this piping and other equipment that is a risk to the environment can be replaced. You could also change "structural failure" to "original design specifications". The piping has not "failed", but it no longer has the integrity it had upon installation.
Page 71745, IV.E.1.	EPA says that regulators have been incorrectly linking SIR to inventory control methods. Please clarify what an "inconclusive" SIR result means as far as suspected releases.
2. Updates to Codes of Practice Listed in the UST Regulation (71746 - 71749)	
Should other codes of practice be added to or removed from the UST regulation? If so, please provide EPA with information about the code and the specific location in the UST regulation where the code should be included or removed.	We are not aware of additions/removals to the codes of practice. The State Regulations provide a list of codes/standards that "may" be used, so that if owners/operators suggest a new or alternate code, this can be approved without requiring a regulatory change.
	Unknown at this time
	No comment.
	The federal list of Industry codes and standards for UST Systems is comprehensive. I know of a new PEI RP being worked on that will cover testing. Perhaps provide a means to add this and any other new standards to your list as they are completed.

The regulations at § 280.20(d) require that all tanks and piping be properly installed in accordance with a code of practices developed by a nationally recognized association or independent testing laboratory and in accordance with manufacturer's instructions. Since the installation codes of practice also address other UST system components such as spill and overfill, should EPA consider revising § 280.20(d) such that all portions of the UST system must be installed according to a code of prctice and according to manufacturer's instructions?	Yes
	Yes
	Yes, required now in the State
	Don't know.
	Yes!! Under 280.20, strongly encourage EPA to include language that says the original performance standards (design, construction, etc.) must be met for as long as the system stores a regulated system. Currently, the regulations just say “new UST systems”. One loophole that states have been experiencing is recalled piping (Total Containment). EPA’s decision has been, according to the regulations, that since the piping met performance standards at installation, they cannot force an owner to replace the warped, damaged, elongated piping. If language was added that required the equipment to meet original performance standards for the entire operating life of the system, this piping and other equipment that is a risk to the environment can be replaced. You could also change “structural failure” to “original design specifications”. The piping has not “failed”, but it no longer has the integrity it had upon installation.
	Yes, all equipment should be installed according to a code of practice and according to manufacturer's instructions.
	Yes
	No strong opinion on this. Should be OK to keep language as is, or if it is decided to go with installed to a code of practice, that should be OK, too.
	Yes

	We feel that all portions of an UST system should always be installed in accordance with the manufacturer's instructions and a nationally recognized code of practice. In cases where these conflict the implementing agency retains the authority to make the determination of which shall be utilized.
3. Updates to Remove Old Upgrade and Implementation Deadlines (71749 - 71750)	
Does removing the deadlines and making upgrades historical cause any unintended regulatory consequences?	No
	We have found it useful in the past during enforcment actions.
	No
	As long as you keep the O&M requirements under upgrades. Repairs of impressed current, lining, etc. still have to meet those requirements.
	Adding the new language at 280.21 Upgrading of Existing UST Systems reinforces that removal of tanks (Subpart G) is required if the tank system was not upgraded "in accordance with (b) through (d)". If the recordkeeping requirement does not include documentation of integrity assessment, and operator does not have record to ensure intergrity was assessed, then what are consequences? Remove or provide opportunity to complete a new integrity assessment? Please see comment below.
	No
	The upgrade deadlines passed more than ten years ago, We already removed the table with deadlines
	No
	No
	None that we are aware of; had proposed the same thing in our rules.
	In our experience, removing historical data causes enforcement problems. Re-stating a requirement and deadline in the past tense, to show that something was required by a certain date, with other statements about the current requirements, allows for the clearest and easiest enforcement. Without the historical data in the regulations, it is hard to convince tank owners/operators in the field, and judges in the courtroom, of past due upgrades - citing and pulling out old versions of the regulations (with the historical requirement) is cumbersome and difficult.

Should EPA consider not allowing the implementing agency the flexibility of making a determination to allow an upgrade?	EPA should allow implementing agencies as much flexibility as possible to allow or reject proposed upgrades, based on site specific factors, and state-specific priorities.
	No
	No
	No. Implementing agencies should have the flexibility to make exceptions as the agency determines or on a case by case basis.
	If a tank or line was not upgraded with CP, must be permanently closed. If steel flex connector is not protected, yes, they may add anodes if a corrosion expert approves. Add spill bucket or overfill if not present should be allowed.
	Not sure if EPA should allow states flexibility to allow "upgrades." We do not allow "1998 upgrades".
	No. EPA should retain regulatory language that allows the implementing agency the abiltiy to allow upgrades.
Other comments?	Recordkeeping 280.34(b) please consider adding "Documentation of compliance with upgrading found in 280.21(b) and (c)". Add the same code of practice used to comply that is included in 280.34(e) for upgrading of previously deferred systems: American Society for Testing and Materials Standard G158 "Standard Guide for Three Methods of Assessing Buried Steel Tanks". This would address integrity assessment for corrosion protection when the record cannot be found or there is no proof of compliance with (b) and (c).
Page 71749, IV.E.3.	EPA should eliminate tank tightness testing combined with inventory control in these regulations versus waiting the 10 years. Do not allow this as a monthly monitoring method. You can then eliminate 43(a) and the always confusing 50(c)(2). Do not allow annual tightness testing as a regulatory option. Do not allow manual tank gauging with tank tightness testing, it is the same as inventory control.
4. Editorial and Technical Corrections (71750 - 71753)	
Are there other editorial corrections (such as typographical errors or inaccurate references) EPA should make?	None that we found.

	None that we found.
F. Alternative Options Considered by EPA (71753 - 71755)	
	It may not be possible to complete monthly walk through inspections at some sites (e.g., emergency power generator sites) in remote locations. Consider annual walk through inspections for facilities other than fueling stations.
	Consider requiring all tests to be completed at the same frequency. We prefer all tests completed annually. This helps both the state and the operator track the tests.

V. Updates to State Program Approval Requirements (71755 - 71758)	Responses
Is three years an appropriate timeframe for requiring a SPA state to submit a revised application? Please provide justification.	Yes
	Yes
	Yes
	Yes. EPA awarded one-time grant money ($50,000) for a SPA application, and should do that again. States must devote scarce resources to develop the SPA application and should be compensated for it. The first time SPA was a big issue EPA also had an independent contractor who would assist states in preparing their SPA application.
	For states to have adequate time to change their regulations and/or statute and prepare a SPA package 5 years is more appropriate.
Should EPA address the proposed procedures for determining compatibility of § 280.32 into the SPA regulations?	Yes
	No
	No
	Yes. If the states are required to be as stringent as the Federal regulations this should extend to compatibility.
Other comments?	281.33 RD Other Comments: The wording of 281.33 (c) (1) is not as stringent as the Federal requirement. The Federal regulatory requirement is very specific in stating that release detection must be completed at least every 30 days. This is very different from 'monthly' which has no specific interval between release detection testing. The SPA wording has led to a specific problem in here where the state program required 'monthly' testing and this was found not to be as stringent as the Federal regulations although it complied with the SPA requirement. The wording in 281.33(c) (1) should be amended to read "All petroleum tanks must be sampled, tested, or checked for releases at least once every 30 days.

	If the state regulations were implemented before the Federal regulations are in effect, state in 281 or 280 that if a state followed the EPACT guidelines that they meet the 'no less stringent' requirement.

Pages 71762 - 71796 contain the proposed revised statutory language for Parts 280 and 281. Please provide any comments to this text and reference specific section and page numbers, if not answered in the previous questions or comments.	**Responses**
280.12 - Definitions	
Dispenser system	This definition should be clarified further. At the end add "This equipment may include flexible connectors, risers, or other transitional components that are beneath the dispenser, below the shear valve, and connect the dispenser to the piping".
Heating Oil	This definition should be revisited by petroleum manufacturing experts. No. 2 fuel oil is apparently the same thing as No. 2 diesel. This causes much confusion when emergency generator tanks are considered.
Motor fuel means petroleum or a petroleum-based substance that is typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any blendgrade of containing one or more of these substances (for example: motor gasoline blended with alcohol)gasohol, and is typically used in the operation of a motor engine.	Add Biofuels
Piping	"in contact with the ground" should be modified to say "in contact with an electrolyte" or "in contact with the ground and/or water". This will protect piping from corroding in sumps that are filled with water.
Regulated Substance	We agree
Release	The definition of "release" should be changed to eliminate the clause about discharging to water or soils. Even if the release is contained, it is still a release, something wrong has happened to the system to allow for a release and the regulator needs to be aware of it.

"Repair - Piping"	States are in disagreement over the use of 50%. There should be some flexibility. "Linear Feet or %, whichever is greater."
Replaced	Agreed.
Secondary containment	We agree that replacement of 50% or more of the piping requires secondary containment.
"Secondary Containment"	Suggest revising definition. For example: "Secondary containment" means a liquid tight physical barrier designed to: (a) Contain any regulated substance that leaks from the primary containment barrier of an underground storage tank system; (b) Prevent groundwater and soil from coming in contact with the primary containment barrier of an underground storage tank system; and (c) Allow access to the interstitial space for monitoring and maintenance.
"Training Program"	"Training Program" should not have to be defined.
UST	f) storm-water or wastewater collection system and (g) flow-through process tank – how does this fit in with the wastewater treatment tank section? Need clarification. Oil-water separators could be considered wastewater collection but the proposed regulations say oil-water separators are wastewater treatment tanks. They could also be considered flow-through process tanks.
280.10(c)(1)	The deferral for aboveground tanks associated with airport hydrants or field-constructed tanks is not necessary. It is already explained in their respective definitions and 280 doesn't apply to aboveground tanks anyway.
280.20(b)(5)	Double walled pipe with a dry interstice and a sump sensor is the most common. These are designed as open ended systems not closed, therefore containment is not physically possible. Therefore (i) and (ii) as written is not possible. Suggest the following wording: (i) Be able to detect and remove any regulated substances leaking from the primary containment; and (ii) Allow for interstitial monitoring of the piping secondary containment.
280.22	Owners should be required to notify when the tank system becomes temporarily out of use. The date the system becomes temporarily out of use is needed for 280.70(c).
280.37- walkthrough inspections	This section of the proposed regulations is silent about walkthough inspections for tanks in temporary closure. We recommend amending this section to state that "owners or operators of any tank in temporary closure must continue to inspect it in accordance with 280.37(a)(1)-(3) and 280.37(b) until it is emptied in accordance with 280.70.
280.40 (b)	Indicate not only release, but also "leak detection" as it is contained.

280.41- Requirements for petroleum UST systems	We recommend removing the option for annual tank tightness testing in conjunction with inventory control, listed at 280.41(a)(1)(i) on page 71771. More than 10 years have passed since the upgrade deadline, and we feel that those who did not meet the original upgrade deadline should not be allowed additional time to use a less-protective form of tank release detection.
	We believe that the numbering in 280.41(b)(1)(ii)(E) on page 71771 is incorrect. It should read (b)(1)(ii)(A)-(D) in order to correctly complete the sentence.
280.43(b)	Do not allow manual tank gauging to be combined with tank tightness testing. It is essentially the same as inventory control and if that will be phased out then so should manual tank gauging with tank tightness testing. Neither should be an allowable method in these proposed regulations.
280.43(d)	We strongly believe that subparagraph (2) should not be removed. Inventory control should be conducted in conjunction with automatic tank gauging because automatic tank gauging by itself may not detect a release. Automatic tank gauging only monitors the tank, whereas other methods of leak detection monitor both the piping and the tank. The State discovered numerous leaks through inventory control when automatic tank gauging showed a passing result.
280.43(h)	The addition of 280.43(h) Statistical inventory reconciliation fails to address one of the biggest problems presented by the SIR method which is the fact that the actual monthly monitoring result is not produced until well into the next month. All of the other monthly methods require the tank to be monitored “at least every 30 days”. In the case of SIR, a leak that began early in a given month would not be detected by SIR until the data was processed sometime the following month, turning the 30 days into more like 40 to 50 days. In our State, this exact thing happened several years ago. A tank started leaking the last week in June but managed to pass the June SIR (due to positive inventory readings form earlier in the month that canceled out the negative readings caused by the leak in the last week). It continued to leak (on the order of 500 gallons per day) all through July and was not detected by SIR until August 9th. Something needs to be done to make SIR more responsive. One possible option could be requiring the SIR analysis to be run every 15 days using the last 30 days of data. This would ensure that the UST system was meeting the 30 day monitoring requirement and that leaks are caught promptly. Another option, though less desirable, would be to add to 280.43(h) a requirement that SIR results must be returned to the owner within 7 days of the end of the month. Currently this timeframe varies from state to state, and some states that cannot be more stringent then EPA cannot add a more frequent SIR analysis or reporting requirement unless it is included in federal regulation.

280.44(a)	So when it references back to 280.40(a)(3) and it says "meet criteria" does that now mean that annual testing has to be tested at the 3 gph at 10 lbs per square inch within 1 hour level or does it still simply have to "trip"? Language needs to be added to clear this confusion. The language for the line tightness test in 44(b) is very clear. Line leak detectors need to be tested at 3 gph and not just their ability to detect a leak. It is common practice in the field, under direction from EPA, that line leak detectors do not need to be tested at 3 gph, except when first installed, but just need to "trip" for future testing.
280.50 and 280.52	We agree that reporting should be required in the event of a signal from an interstitial monitoring device, presence of liquid in the interstitial space, or other related abnormal operating condition.
280.7	EPA should consider requiring a site assessment before tanks are placed into temporarily out of use status. Most financial responsibility policies do not cover TOU tank systems. Therefore, if a release is discovered, there is no insurance coverage and the costly cleanup will most likely be delayed if not all together abandoned because of inability to pay.
280.241(b)	The language is not clear that "UST owners and operators must designate *all* of their employees who meet the Class C operator definition as Class C operators." as stated on page 71712 and 71713.
280.245	It is agreed that owners and operators must maintain records that all operators have been trained but requiring a list in addition to the training records is not necessary. As long as the owner/operator can provide the training records then compliance has been achieved. A list that needs to be maintained on a weekly basis (extremely high turnover for Class C's) is an unnecessary burden.
Notification Form, Page 71785	The form should include an "ownership change" type of notification instead of having a separate form. It is unnecessary and wasteful to have 2 separate forms. It is also more difficult to track. The form should be required to be used to notify of putting the tanks into temporarily out of use status. The form should specify which type of "cathodically protected steel" is present – impressed current or galvanic? The form should specify which type of overfill device is present. The form should specify continuous or manual interstitial monitoring. It should specify if the spill bucket is double-walled. Now that under-dispenser containment is required, there needs to be a section for that. Which dispensers? Do they have UDC? When were they installed?

Subpart H:	Require FR for Hazardous Substance USTs: The Federal Regulations should be amended to require financial responsibility for hazardous substance USTs. The risk of contamination as a result of a release from a hazardous substance UST is no less than that of a petroleum UST, therefore there is no reasonable basis for exempting hazardous substance UST owners from providing the same financial assurance for cleanup and third party damage.
	Clarify in FR whether number of tanks owned/operated is nationwide or per state: We recommend making the FR requirement specific to the number of USTs owned or operated by state. It is not logical that an owner/operator of 102 USTs must provide the same amount of FR as the owner/operator of 5000 USTs. 280.93: (b)(1) For
	Require a single beneficiary on Letters of Credit. Allowing multiple states as beneficiaries on Letters of Credit may cause significant problems if one state cashes the Letter of Credit and another state also has a release and needs to cash the Letter of Credit which now no longer actually exists.
	Performance Systems for new UST Systems (a) Tanks (6) The tank is secondarily contained. Secondary containment must be periodically tested in accordance with § 280.36. Secondarily contained tanks must meet the following: (i) Be able to contain regulated substances leaked from the primary containment until they are detected and removed; and (ii) Be able to prevent the release of regulated substances to the environment at any time during the operational life of the UST system.