



PBS Regulations Update

November 23, 2015

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Agenda

1. Introduction/Ground Rules
2. Overview of Rulemaking
3. Structure of Part 613
4. Applicability of Part 613
5. Subpart 1
5. Subpart 2 and federal UST regulations
6. Subpart 3
7. Subpart 4
8. Wrap-Up



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Ground Rules for Webinar

- We will mute all lines
- Please type all questions into chat box (directed to host)
- Questions will be addressed at specific points during the presentation



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Regulations have been ADOPTED!

Effective Date
October 11, 2015



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Overview of Rulemaking

Why? (What were the goals?)
Phase I:

- Reflected changes made to State and federal laws
- Consolidated *most* former federal requirements into State regulations
- Increased consistency by adopting federal UST definitions and structure of the UST regulations
- Provided clarifications to certain requirements



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Overview of Rulemaking

Major changes incorporated:

- Structure (PBS now, CBS later)
- Applicability (definitions)
- Operator Training
- Delivery Prohibition
- Secondary Containment for piping and dispensers (PBS)

No substantive new requirements in Phase I beyond what is required by changes to law



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Overview of Rulemaking

In Phase II, we will adopt:

- Additional initiatives that EPA adopted in the revised 40 CFR Part 280 (Effective Date of **October 13, 2015**)
- Additional NYS initiatives that should be considered to prevent leaks and spills
- Changes to Part 610 (MOSF)
- Changes to Part 611 (Spill Response and Corrective Action)



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PBS Regulations

Part 613 Structure



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Part 613 Structure

- Subpart 1: General Provisions
- Subpart 2: UST Systems Subject to Both Subtitle I and Title 10 (USEPA & NYSDEC regulated)
- Subpart 3: UST Systems Subject Only to Title 10 (NYSDEC regulated)



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Part 613 Structure

- Subpart 4: AST Systems
- Subpart 5: Delivery Prohibition
- Subpart 6: Release Response and Corrective Action



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Structure of Subparts 2 - 4

Requirements for	Subpart 2	Subpart 3	Subpart 4
Equipment	.1	.1	.1
General Operations	.2	.2	.2
Leak Detection/Inspection	.3	.3	.3
Reporting, Investigation, and Confirmation	.4	.4	.4
Operator Training	.5		
Out-of-Service Tanks and Tank Closure	.6	.5	.5



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Subpart 1 Requirements

General Provisions



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Applicability

- What is / is not petroleum?
- What is / is not a tank?
- What is / is not a facility or part of a facility?
- What is a UST system or AST system?
- Which UST systems are covered by Subpart 2 vs Subpart 3?
- What are tank categories?
- Who is responsible for compliance?



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Applicability

Petroleum means:

- Crude oil and any fraction thereof
- Synthetic forms of certain oils, complex blends of hydrocarbons, and petroleum mixtures are included
- Animal & vegetable oils and substances that are normally gases are excluded



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Applicability

Petroleum mixture:

- 1% or more petroleum with no hazardous substance
- OR
- At least 70% petroleum with less than 30% hazardous substance



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Applicability

Tank system means:

- Stationary device designed to store petroleum that is constructed of non-earthen materials that provide structural support, including all associated piping and ancillary equipment



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Applicability

Tank system does not include:

- Dispenser system
- Septic tank system
- Surface impoundment, pit, pond, or lagoon
- Spill/overflow containment tanks expeditiously emptied after use
- Stormwater or wastewater collection system
- Flow-through process tank system
- Liquid trap/gathering lines related to oil/gas production



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Applicability

- *Stationary device* means a device that is not mobile
- Examples of stationary devices include tank systems that are fixed or permanently in place on foundations, racks, cradles, or stilts



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Applicability

Facility means:

a single property, or contiguous or adjacent properties used for a common purpose which are owned or operated by the same person or persons, on or in which are located:

(1) one or more tank systems having a combined storage capacity of more than 1,100 gallons (including a major facility)

OR

(2) an underground tank system having a storage capacity that is greater than 110 gallons



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Applicability

Facility means:

- The property on which the tanks are located, not the tanks themselves
- Even if there is more than one tank owner at a property, all tanks may be considered one facility
- If unrelated businesses on the same property, then each business may be considered a separate facility



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Applicability

Facility includes:

- One or more tank systems with combined storage capacity >1,100 gallons
- Certain USTs >110 gallons



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Applicability

Facility does not include:

- *Operational tank systems*
- *Temporary tank systems*
- *Wastewater treatment tank system*
- Heating oil tank systems $\leq 1,100$ gallons used for on-premises consumption*
- Tank systems $\leq 1,100$ gallons storing motor fuel for non-commercial purposes at a *farm or residence**

*unless on a property that is otherwise a facility



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Applicability

Operational tank system means:

a tank system that is integral to, or connected to, equipment or machinery for which the petroleum in the system is used solely for operational purposes

- Petroleum in an operational tank system is not consumed in any way (such as being combusted as fuel or used as a raw material in a manufacturing process)
- Examples of operational tank systems include hydraulic lift tank systems, lubricating oil system reservoirs, electrical cable oil reservoirs, and electrical transformers



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Applicability

Temporary tank system means:

- an aboveground tank system that is installed and intended for use on a property for no more than 180 consecutive days during any 12-month period



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Applicability

Wastewater treatment tank system means:

- a tank system that is designed to receive and treat influent wastewater through physical, chemical, or biological methods
- Common example – oil-water separator (where the skimmed oil is stored in the separator)



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Applicability

- Tank systems $\leq 1,100$ gallons storing motor fuel for non-commercial purposes at a *farm* or *residence**

*unless on a property that is otherwise a facility



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Applicability

Farm means a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. Farm includes fish hatcheries, rangeland, and nurseries with growing operations

Residence means a building that is primarily used for dwelling purposes, including any home, apartment building, or nursing home. This term does not include a hospital or hotel



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Applicability

- *UST system* means:
 - tank system that has 10% or more of its volume beneath the surface of the ground, or
 - is covered by materials
- *AST system* is defined as the opposite of UST system
- AST system includes tank system in an *accessible underground area*



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Applicability

- Subpart 2 covers all UST systems that are part of a facility not covered by Subpart 3
- Subpart 3 covers UST systems that are part of a facility where the UST system:
 - Contains heating oil for on-premises consumption
 - Has a design capacity of 1,100 gallons or less storing motor fuel at a farm or residence
 - Is part of emergency generator at nuclear power plant
 - Consists of a field-constructed tank



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Applicability

- *Accessible underground area* applies to certain installations of vaulted & encased tanks (means exterior of tank able to be physically inspected)
- Double-walled tanks located aboveground (including those in manufactured concrete vaults) are still considered ASTs
- New inspection procedure outlined in 613-4.3(b)(1)



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Applicability

Tank System Categories

- Category 1 = tank installed before December 27, 1986
- Category 2 = tank installed from December 27, 1986 through October 11, 2015
- Category 3 = tank installed after October 11, 2015



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Applicability

- Definitions of *Class A Operator*, *Class B Operator*, *Class C Operator* are added for purposes of operator training
- Original definition of *operator* applies for all other situations
- Property owner or authorized representative is responsible for tank registration
- Tank owner / operator is responsible for operation and maintenance of tanks



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Applicability

Counties with Program Approval

- Have to apply for continuation of program approval
- State PBS regulations continue to apply (except for registration)
- State Agencies/Public Authorities comply with DEC instead of County requirements



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Questions?



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Recordkeeping

Recordkeeping requirements have been clarified:

- Hard copy or electronic acceptable
- Last 30 days of leak detection monitoring always available
- All other records made available within 3 days of request
- When inspection is announced, all records will need to be available at time of inspection



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Registration

- Responsibility of property owner (or authorized representative)
- One registration per property (generally)
- Multiple registrations allowed per property if tank owners are operationally independent
- Factors to consider include property and tank ownership issues, whether the operators are independent from each other, the feasibility of having all tanks listed under one registration, and whether tank systems are being used for a "common purpose"



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Registration

General:

- Tanks must be listed on facility registration prior to receiving product
- Temporary tanks must be registered if not removed within 180 days after installation
- Facility/tank information must be kept current and accurate
- Facility (property) owner may rely on authorized representative to register facility



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Registration

Renewals required the earlier of:

- Once every 5 years, or
- When property ownership changes

Required until DEC receives written notice that facility is permanently closed



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Registration

Initial registration or transfer of ownership:

- Must include copy of the current deed of property or other evidence of ownership of property
- Must include payment of registration fee



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Registration

Information correction – the following information must be kept current and accurate:

- Contact information
- Class A and Class B Operator information
- Tank system status
- Tank system equipment
- Petroleum stored



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Questions?



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Subpart 2 Requirements

UST Systems Subject to
Both Subtitle I and Title 10



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Equipment Requirements

Category 3 UST systems – double-walled tank and piping only acceptable method of secondary containment

Spill / overfill prevention not required for USTs receiving ≤25 gallons at a time



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Equipment Requirements

Under-dispenser containment (UDC) required for new dispenser systems



45

Equipment Requirements

Piping replacement requirement:

- *Entire* piping run must be replaced when 50% or more of piping run is replaced
- Unless piping has been constructed in accordance with section 613-2.1(b)(2)



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UST As-Built Plans

- Accurate site diagram for Category 2 and 3 UST systems
- Signed installer statement for each UST component* installed after 10/11/2015
- Manufacturer's installation checklist for each UST component* installed after 10/11/2015

*UST component = tank & pipe



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Operating Requirements

Spill / overfill prevention requirement:

- One of the transfer procedures described in NFPA 385 or API RP 1007 must be used
- Unless those procedures are technically infeasible



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Operating Requirements

Cathodic protection monitoring records must be maintained for 3 years

- Change from former requirement (1 year)
- For consistency with other recordkeeping requirements



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Fill Port Labels

- Slightly different requirement from former Part 614
- **614-compliant label DOES NOT need to be replaced**
- New labels must conform to new Part 613 requirements



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Leak Detection / Investigation

- Inventory monitoring (10-day reconciliation) is required only for UST systems storing motor fuel or kerosene which is sold as part of a commercial transaction
- Be aware of **NYS Fire Code Section 3404.2.11.5.1 (inventory control)** – “daily inventory records shall be maintained for underground storage tank systems”



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Leak Detection / Investigation

- All UST systems must be monitored for leaks weekly
- Last 30 days of LD records must always be accessible
- Monthly operability check required
- Federal leak investigation requirements are incorporated



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Operator Training

- Federal operator training requirements are incorporated
 - DER-40 available: www.dec.ny.gov/docs/remediation_hudson_pdf/der40.pdf
 - DEC has developed training material and test
- Test is administered online and in-person (see <http://www.dec.ny.gov/chemical/102202.html> for details)
- Operators have until October 11, 2016 to complete



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Operator Training

Retraining / Retesting

- Not required unless facility has significant non-compliance

Reciprocity

- Any state with EPA-acceptable Operator Training program (initial authorization only)

Exemptions

- NONE



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“Who is my Class A/B/C Operator?”

- Class A
 - Manages resources & personnel to achieve/maintain compliance
- Class B
 - More technically oriented toward operation & maintenance of USTs
- Class C
 - Responds to emergencies



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Out-of-Service Tanks

Tanks are either *in-service* or *out-of-service*

- Must maintain CP & LD for OOS UST systems
- No LD if system is empty (<1 inch of residue)
- Systems OOS between 3-12 months have add'l requirements
- Systems OOS >12 months must be closed
- Need OOS date on registration form



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Tank Closure

When UST system is out-of-service for more than 12 months, UST system must be closed:

- Regardless of whether Category 1, 2 or 3
- To be consistent with Fire Code

Closure report due no more than 90 days after permanent closure



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Financial Responsibility

Will be incorporated in next round of rulemaking

Federal requirements in 40 CFR 280 still apply



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Questions?



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Overview of Federal UST Regulations



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Federal UST Regulations

- 40 CFR Part 280 was published on July 15, 2015
- Effective date of October 13, 2015
- Changes to applicability
- New requirements mostly due by October 13, 2018 with some due immediately and new construction standards starting April 11, 2016



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EPA UST Applicability

- Deferrals removed:
- Field-constructed UST systems and airport hydrant systems comply with Subpart K
- Wastewater treatment tank systems – comply with partially excluded tank requirements (corrosion protection)
- Tanks containing radioactive material covered by Atomic Energy Act
- Emergency power generator tanks at nuclear power plants



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EPA UST Requirements Due Immediately

- Ball float valves no longer able to be installed or replaced
- When secondary containment areas repaired, it must be tested for tightness unless leak detection system in place
- Repair to spill or overfill prevention: must be inspected/tested for proper operation



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EPA UST Requirements Due Immediately

- Internally lined tanks that fail inspection of lining and cannot be repaired in accordance with code of practice must be closed
- Compatibility must be demonstrated when product being stored is more than E10 or B20



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EPA UST Requirements by April 11, 2016

- All new USTs installed must have:
- Secondary containment
AND
- Interstitial monitoring
- UDC for new dispensers
- DEC requires this for all installations after October 11, 2015



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EPA UST Requirements by October 13, 2018

- Operator training (DEC deadline is October 11, 2016)
- Site assessment where GW or vapor wells used for RD
- Spill prevention equipment (catch basin) testing (3 years)
- Overfill prevention equipment inspection
- Containment sump testing (3 years)
- RD equipment operability testing (annual)
- Walkthrough inspections (monthly)



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Questions?



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Subpart 3 Requirements

UST Systems Subject
Only to Title 10



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Equipment Requirements

Category 3 UST systems – double-walled tank and piping only
acceptable method of secondary containment

Overfill prevention not required for USTs receiving ≤ 25 gallons
at a time

Accurate site diagram for Cat 2 and 3 UST systems
(same as Subpart 2)



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Operating Requirements

Spill / overfill prevention requirement:

- One of the transfer procedures described in NFPA 385 or API RP 1007 must be used
- Unless those procedures are technically infeasible



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Operating Requirements

CP monitoring records must be maintained for 3 years

Tank system compatibility requirements are consolidated
into one section



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Fill Port Labels

- Slightly different requirement from former Part 614
- **614-compliant label DOES NOT need to be replaced**
- New labels must conform to new Part 613 requirements



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Leak Detection

Category 1 UST systems must be tightness tested annually
(exempt if storing #5/6 oil or have acceptable leak detection)

Weep holes are allowed as leak detection for concrete-
encased tanks (NYC design)



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Leak Detection

Annual line testing required for suction piping that is part of Category 1 system

No leak detection required for suction piping that is part of Category 2 or 3 system



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Leak Investigation

Federal leak investigation requirements incorporated (to be consistent with Subpart 2)



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Out-of-Service Tanks

Tanks are either *in-service* or *out-of-service*

- Must maintain CP & LD for OOS UST systems
- No LD if system is empty (<1 inch of residue)
- Systems OOS between 3-12 months have add'l requirements
- Systems OOS >12 months must be closed
- Need OOS date on registration form



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Tank Closure

When UST system is out-of-service for more than 12 months, UST system must be closed:

- Regardless of whether Category 1, 2 or 3
- To be consistent with Fire Code



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Tank Closure

As in former regulations, closure site assessments are not required for Subpart 3 USTs

However, they are strongly recommended



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Questions?



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Subpart 4 Requirements

AST Systems



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Equipment Requirements

New tank construction standards (UL 80, UL 2258) are adopted to allow for new technologies



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Equipment Requirements

Tanks not constructed of steel are now allowed:

- for storage of Class IIIB petroleum in areas that would not be exposed to spills or leaks of Class I or Class II petroleum; or
- if dictated by properties of petroleum stored but only with prior DEC approval



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Tank Secondary Containment

Tank secondary containment requirements are clarified (see 613-4.1(b)(1)(v))

- Required for ASTs $\geq 10,000$ gallons
- ASTs $< 10,000$ gallons within 500 horizontal feet of sensitive receptor must either have secondary containment or utilize a design/technology such that release is not reasonably expected to occur



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Equipment Requirements

Additional industry standards for testing of ASTs at installation are adopted



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Operating Requirements

Spill / overfill prevention requirement:

- One of the transfer procedures described in NFPA 385 or API RP 1007 must be used
- Unless those procedures are technically infeasible



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Operating Requirements

Cathodic protection monitoring:

- Annual monitoring for adequacy of cathodic protection required
- Impressed current systems must be monitored every 60 days for operation
- Cathodic protection monitoring records must be maintained for 3 years



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Operating Requirements

Tank labeling requirements:

- Tank ID number
- Design capacity
- Working capacity

Fill port color coding or marking



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Inspections & Leak Detection

“Reasonably expected to discharge” has changed to “in close proximity to sensitive receptors”

Tightness testing of ASTs (alternative to 10-year inspection) allowed



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Other Requirements

Tank system compatibility requirements consolidated into one section

Federal leak investigation requirements incorporated (to be consistent with Subparts 2 and 3)



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Tank Closure

- ASTs OOS >12 months at an active site NOT required to be permanently closed
- Active site = one or more other tanks not OOS



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Questions?



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Wrap-Up

Additional webinars:

- December 14 – focus on Subpart 2 requirements
- January 11 – focus on Subpart 3 requirements
- February 8 – focus on Subpart 4 requirements



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Questions?

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