

ERRATA SHEET for  
**DER-40, Operator Training**  
Issued on October 9, 2015

Citation and Page Number	Current Text	Correct Text	Date Posted
Under Policy heading, second paragraph:  the reference to definitions of Class A & B operators for CBS facilities  Page 1	6 NYCRR section 596.1(c)(8-9)	6 NYCRR section 596.1(c)(9-10)	10/30/2019

# DER-40 / Operator Training

New York State Department of Environmental Conservation

## DEC Program Policy

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### I. Summary

This policy provides guidance on the requirements for training and testing of operators of certain underground storage tank (UST) systems at petroleum bulk storage (PBS) and chemical bulk storage (CBS) facilities in New York State (NYS).

### II. Policy

Pursuant to 6 NYCRR section 613-2.5, operators and tank system owners at PBS facilities must designate a Class A, Class B, and Class C Operator for every UST system at their facilities which is subject to 6 NYCRR Subpart 613-2. Under 6 NYCRR section 598.12, operators and tank system owners at CBS facilities must designate a Class A, Class B, and Class C Operator for every UST system at their facilities. The above-referenced UST systems are subject to operator training requirements and this policy.

Any person designated as a Class A or B Operator (see definitions at 6 NYCRR section 613-1.3(j-k) for PBS facilities and 6 NYCRR section 596.1(c)(8-9) for CBS facilities) must become authorized by (1) passing an exam administered by the NYS Department of Environmental Conservation (DEC) or (2) obtaining a current and valid operator training credential issued by another state government with an operator training program acceptable to DEC. Individuals who are designated as Class A, Class B or Class C Operators for a facility are not required to be employees of the facility owner, tank system owner, or the overall operator of the facility.

Any person designated as a Class C Operator must be trained under the direction of an authorized Class A or Class B Operator, or be a Class A operator who also meets the Class C Operator requirements. Class B Operators are considered qualified to be Class C Operators without further training. Class C Operators are not required to pass a DEC exam or possess an operator training credential issued by any other regulatory authority.

A Class A Operator is an individual who has primary responsibility for the operation and maintenance of a UST system. A Class B Operator is an individual who has day-to-day responsibility for implementing applicable requirements. There is no limitation on the number of facilities containing UST systems for which an individual Class A or Class B Operator can be designated. However, a Class A and/or Class B Operator must fulfill his or her responsibilities for every UST system for which he or she is designated.

An authorized operator may be designated at multiple facilities simultaneously or at individual facilities over time. One person may fulfill all of the roles of a Class A/B/C Operator for one or more UST systems at one or more facilities.

The person who registers the facility with DEC (that is, the facility owner or their authorized representative) must identify in the facility registration application a Class A and a Class B Operator for each facility with a subject UST system.

For UST systems subject to 6 NYCRR Subpart 613-2 or 6 NYCRR Part 598 that were installed on or before September 11, 2016, operators or tank system owners must ensure that Class A and Class B Operators are designated and authorized no later than October 11, 2016.

Any Class A or Class B Operator designated after September 11, 2016 must be authorized within 30 days after being designated.

PBS and CBS facility owners must keep facility registration information current, including the identity of designated Class A and Class B Operators. See 6 NYCRR sections 613-1.9(a) and 1.9(e)(3)(ii), and 6 NYCRR sections 596.2(a) and (e)(3)(ii), respectively.

Class A, Class B, or combination Class A/B Operators are not required to be retested unless DEC determines that there is significant non-compliance (SNC), as set forth in this document, with respect to one or more UST systems for which the operator has been designated. DEC will determine on a case-by-case basis the violations that could result in a determination of SNC. Any Operator who was granted initial authorization through reciprocity and is designated at a facility determined to be in SNC will need to be retested or replaced with another authorized Operator.

Class C Operators are individuals having primary responsibility for addressing emergencies presented by a spill or release from a UST system. Every designated Class C Operator must, before being designated, be:

1. trained and tested under the direction of an authorized Class A or Class B Operator with respect to how to respond to emergencies and alarms caused by spills and releases, or
2. a Class B Operator or a Class A Operator who meets Class C requirements.

In the event that a Class A and/or Class B Operator no longer meets the requirements for authorization for a tank system, the operator or tank system owner must designate a new Class A and/or Class B Operator within 30 days after the event. The new Class A and/or Class B Operator must become authorized within 30 days after being designated.

### **III. Purpose and Background**

On August 8, 2005, the federal Energy Policy Act of 2005 was signed into law. Title XV, Subtitle B of this act (titled “Underground Storage Tank Compliance”) contains amendments to Subtitle I of the Resource Conservation and Recovery Act – the original legislation that created the federal UST program (Subtitle I). Under Subtitle I, USEPA was required to publish a guideline that specifies training requirements for three classes of operators:

- persons having primary responsibility for on-site operation and maintenance of UST systems;
- persons having daily on-site responsibility for the operation and maintenance of UST systems; and
- daily, on-site persons having primary responsibility for addressing emergencies presented by a spill or release from a UST system.

Amendments to the NYS Environmental Conservation Law (ECL) to include the operator training requirements of Subtitle I became effective on July 21, 2008. See ECL sections 17-1015(3) and 40-0113(1)(h). These amendments granted DEC authority to require training for operators of all regulated petroleum and chemical storage tank systems located at PBS and CBS facilities.

While the ECL provisions give DEC the authority to apply the operator training requirements to operators of both underground and aboveground storage tank systems, DEC has decided to limit the applicability of the operator training requirements to operators of USTs subject to the requirements of Subtitle I at this time.

Based on the number and diversity of the operators required to be trained, DEC has determined that it will not directly offer the training and will not review and approve third-party training programs. However, DEC developed training material for Class A and Class B Operators which includes guidance on how these operators should train Class C Operators. DEC has made this material available on its website. In addition, DEC has developed an exam for Class A and Class B Operators which may be taken online or in person.

#### **IV. Responsibilities**

Operators and tank system owners are responsible for:

- ensuring that Class A, B, and C Operators are designated for each facility where required;
- ensuring that Class A and Class B Operators are timely authorized;
- ensuring that Class A and Class B Operators are re-authorized or replaced within 30 days after DEC determines that a UST system is in SNC with the applicable bulk storage regulations;
- ensuring that Class C Operators are trained in emergency response procedures specific to their facility before being designated;
- maintaining evidence of the required training and subsequent assessment of knowledge of all Class C Operators; and
- producing evidence of the training of all Class C Operators at a facility upon request by DEC.

At a minimum, evidence of training for Class C Operators should include:

- a log of all training provided, including the date of the training;
- a confirmation that the training addressed UST system-specific emergency response procedures;
- the name and authorization number of the Class A or B Operator who directed the training; and
- a description of how the Class A or B Operator determined that the Class C Operator understands and can fulfill their regulatory responsibilities (assessment of knowledge).

The Division of Environmental Remediation (DER), Bureau of Technical Support is responsible for interpreting and revising this guidance.

## V. Procedure

The following procedures apply to the administration of exams for Class A, Class B, and combination Class A/B Operators.

### 1. Exam Preparation

DEC has made training materials available (see DEC's website). Anyone desiring to be authorized as a Class A and/or Class B Operator may prepare for the exam through the review of DEC materials or other appropriate methods.

### 2. Exams

- a. Topics to be tested in the exam are specified in 6 NYCRR 613-2.5 (PBS regulations) and 6 NYCRR 598.12 (CBS regulations).
- b. The exam is accessible online or may be taken in person.
- c. For an online exam, the examinee must register online and provide his or her name, mailing address, email address, and phone number. The online version of the exam is continuously accessible.
- d. An examinee may take the exam at a DEC office (that is, certain Regional offices and Central Office in Albany) or other locations, if DEC determines that additional locations are needed. The exam may be taken on a computer or in paper format. An examinee requesting to take an exam in person must submit his or her request to DEC specifying their preference for a paper or computer-based exam. Requests may be submitted either by mail (NYSDEC; 625 Broadway – Operator Training; Albany, NY 12233-7020) or by email ([operatortraining@dec.ny.gov](mailto:operatortraining@dec.ny.gov)). Requests must include the name, address, email address (if available), and phone number (if available) for the requestor. DEC will determine when and where to administer in-person exams and will notify examinees of available dates and places. All in-person exams will be proctored.
- e. Every examinee must confirm his or her identity and affirm that he or she was not assisted with taking the exam.
- f. There are three different exams. All exams may be taken open-book. The exams are as follows:
  - i) The Class A Operator exam consisting of approximately 65 graded questions and seven ungraded demographic questions, which will need to be answered within a two-hour period;
  - ii) The Class B Operator exam consisting of approximately 50 graded questions and seven

ungraded demographic questions, which will need to be answered within a two-hour period; and

iii) The combination Class A/B Operator exam consisting of approximately 80 graded questions and seven ungraded demographic questions, which will need to be answered within a two and one-half hour period.

- g. Primary emphasis is given to questions in the following subject areas: Tank System Basics, Overfill Prevention, Tank Leak Detection, Piping Leak Detection, Corrosion Protection and Related Testing, Spill Containment, UST System Record Keeping, and Operation and Maintenance.
- h. The following subject areas are less heavily emphasized: Tank Registration, Financial Responsibility, Out-of-Service Status/Temporary Tank Closure, Permanent Tank Closure, Inventory Control, Dispensers, Spill Reporting and Response Actions, Product and Equipment Compatibility, and Training of Class C Operators.
- i. DEC will determine the passing mark for any particular exam based upon on a psychometric evaluation of results of the exam. Exam results will be pass/fail and will be determined by passing marks of approximately 70 percent.
- j. Exam questions are weighted to reflect the varying complexity of the topics and importance in preventing releases.
- k. DEC does not charge for access to training materials or for taking the exam.

### 3. Authorization of Class A and Class B Operators

- a. Exam results will be provided by DEC to the examinee upon completion of the online exam through the online system. Exam results will be given as pass or fail. An examinee who passes the exam should print the certificate identifying him or her as an authorized UST operator (Class A, Class B, or combination Class A/B) in New York State. Owners may require Operators to provide them with a certificate showing that they are an authorized Operator. Certificates are dated and uniquely numbered.

The results of in-person paper exams will be manually entered into a database by DEC staff. Results will be mailed to an examinee within approximately 30 days after the exam date.

Exam results will be stored in DEC's operator training database.

- b. Examinees who do not pass the exam may retake it, but no more than a total of three times, including the latest attempt, in the preceding six months. Exams may not be retaken more than once within a 24 hour period.
- c. If a tank system is determined to be in SNC, as set forth in this document in section V(6), the Class A and/or Class B Operator must be re-authorized or replaced according to the procedure outlined in section V(7).

#### 4. List of Authorized Operators

- a. A list of currently authorized Class A and B Operators is available on DEC's website. The information on the list is limited to operator name, identification number, and authorization date.
- b. If re-authorization is required for designated operators due to SNC or other situations, DEC will remove the name of the operator from the list until the operator has completed the re-authorization process.

#### 5. Reciprocity

A person may apply for authorization as a Class A or Class B Operator without passing the DEC exam if he or she possesses a current and valid operator training credential issued by another state with an operator training program acceptable to DEC. Acceptability is determined by whether USEPA has deemed the other state's program as meeting the requirements of operator training as specified in the federal guideline for establishment of operator training programs (<http://www2.epa.gov/ust/underground-storage-tank-ust-operator-training>). DEC will post a list on its website of states with acceptable operator training programs.

#### 6. DEC Determination that Retesting is Required

As set forth in 6 NYCRR 613-2.5(e), Class A or Class B Operators designated for UST systems that are determined by DEC to be in SNC must be retested. Violations that may result in a determination of SNC are found in the USEPA document *Grant Guidelines to States for Implementing the Operator Training Provision of the Energy Policy Act Of 2005*, dated August 2007 and can include:

- The tank system is not properly equipped as required by the regulations for:
  - protection from corrosion for the tank or piping system;
  - secondary containment;
  - spill prevention (catch basin at the fill port);
  - overflow prevention; or
  - leak detection for the tank or piping.
- The tank system's equipment is not functional and able to:
  - protect the tank system from corrosion;
  - prevent spills at the fill port;
  - prevent overfills; or
  - detect leaks from the tank or piping.
- The tank system has not been monitored as follows:
  - no testing of cathodic protection systems for more than 18 months; or
  - leak detection for the tank or piping system has not been conducted for more than one month.

## 7. Re-Authorization of Operators Who Are Required to be Retested

- a. If DEC determines that a UST system is in SNC, an appropriate enforcement action will be taken, which will include requiring the Class A and/or Class B Operator to be re-authorized or replaced. DEC will specify whether the Class A Operator, Class B Operator, or both will be required to be re-authorized or replaced.
- b. If DEC observes that a Class A or Class B Operator is designated for tank systems at one or more facilities with multiple occurrences of SNC (continual non-compliance issues), DEC reserves the right to address operator training in appropriate enforcement actions, which may include prohibiting that person from being authorized as an operator for a specified period of time.
- c. Operators designated for UST systems determined to be in SNC who wish to remain designated must take and pass the DEC exam within 30 days after DEC determines that a relevant UST system is in SNC.

## 8. Retirement of Authorization

Once an operator meets the requirements of the regulations and this policy, the operator does not lose the status of being an authorized operator unless they have been designated by a facility found to be in SNC. When an operator decides to not be an authorized operator in NYS, the operator may voluntarily request that their authorization as a Class A and/or Class B Operator be retired.

## **VI. Related References**

- 6 NYCRR Part 613: Petroleum Bulk Storage regulations. DEC. October 11, 2015.
- 6 NYCRR Parts 596, 597, 598, 599: Chemical Bulk Storage regulations. DEC. October 11, 2015.
- *Operator Training Guide for Class A and B Operators*, (aka *TankIQ*). DEC. October 2015.
- *Grant Guidelines to States for Implementing the Operator Training Provision of the Energy Policy Act of 2005*. USEPA. August 2007.