

# UST Division Public Comment Responses

New Operator Retraining Process – FINAL – October 2, 2024

October 2, 2024

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## **TFCA Public Comment #12**

*Page 90 of 92 Failure to successfully complete retraining to the appropriate level of operator Class within a timeframe determined by the Division.*

**TFCA:** This “timeframe determined by the Division” is subjective, but subjective to what means?

- Division Response 1. Item 372/373 description changed to reflect the rule, “Failure to successfully complete retraining to the appropriate level of operator Class within 30-days of the date non-compliance is determined”.
  - Rule 0400-18-01-.16(4): “If the division determines that the UST system is out of compliance at any time, then successful completion of operator retraining appropriate to the level of the operator Class must be completed within 30 days from the date the division determines that the UST system is out of compliance.”

## **TFCA Public Flyer Comment #15**

*Flyer #1 ATG Automatic Tank Gauging*

*Continuous Testing (second bullet point) “o if a continuous leak test result is not available by end of 30 days, a static leak test must be conducted”.*

- Division Response 1. Changed. Removed “o”.

**TFCA:** This statement seems all inclusive, regardless of your declared method. Example would be if your declared method is I/M, is the requirement also CSLD with Static at end of 30 days?

**TFCA:** TFCA believes this section needs to be readdressed for better clarity and definition.

- Division Response 1. There are separate flyers for ATG and I/M exclusively. The statement is only for ATG as the declared leak detection (ATG flyer).
- Division Response 2. Added “ATG” to continuous leak test

## UST Division Public Comment Responses (cont'd)

New Operator Retraining Process – FINAL – October 2, 2024

October 2, 2024

---

- “If an ATG continuous leak test result is not available by the end of 30 days, a static leak test must be conducted.”

### **TFCA Public Flyer Comment #16**

#### ***Flyer #3 IM Interstitial Monitoring***

***Recordkeeping and Requirements section, last bullet point in blue: If any of the following conditions are observed, then the Division should be contacted to report a suspected or confirmed release with 72 hours.***

- **TFCA: Should this be “within” 72 hours?**
- **TFCA: Please note that during our change in seasons and our rapid temperature drops/increases, condensation frequently occurs within the interstice space. Interstitial sensors will frequently detect the moisture from the condensation on the sensor itself and go into alarm. The alarm is found in the alarm history, however no liquid detected in the dry interstice, and therefore not reportable. This seems to be a point of contention and worth a mention.**
- **TFCA: One tank owner noted that water collects around/under pumps every time it rains In Tennessee and frequently sets off alarms. If the section is enforced as laid out In the new guidance, tankowners feel they will be reporting sensor alarms every time It rains and trigger unnecessary field evaluations.**
- **TFCA: The layout of this section is not defined as to what the division response should be or what kind of response time frame can be expected. If you report all moisture in the interstitial monitoring, what action will the division take in response?**
- **TFCA: I would like clarification to the rule on IM pertaining liquid in the double wall portion to be to be addressed in the rule to match what that are proposing in the operator training. In my opinion its currently not clear that you have to report any water in a IM space of a double wall tank.**
- **TFCA: TFCA strongly believes that this section exceeds the authority of the rule regarding interstitial monitoring. Liquid should be reported ONLY when it is fuel. Water condensation or collection should not be reportable.**
- **TFCA: TFCA believes this section needs a complete revision to make clear that water not containing fuel is not reportable.**

## UST Division Public Comment Responses (cont'd)

New Operator Retraining Process – FINAL – October 2, 2024

October 2, 2024

---

- **TFCA: Please see the rule referenced below in which the three exceptions to reporting are laid out.**

**TFCA: Rule 0400-18-01-.05(1)(a)2 states,.**

***"Owners and/or operators of UST systems shall report to the division within 72 hours and follow the procedures in paragraph (3) of Rule 0400-18-01-.05 for any of the following conditions:***

***2. Unusual operating conditions observed by owners and/or operators (such as the erratic behavior of petroleum dispensing equipment, the sudden loss of petroleum from the UST system, or an unexplained presence of water in the tank, or liquid in the interstitial space of secondary contained systems),. unless:***

***(i) The system equipment or component is found not to be releasing petroleum into the environment;***

***(ii) Any defective system equipment or component is immediately repaired or replaced; and***

***(iii) For secondarily contained systems any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed."***

- Division Response 1. Changed "within".
- Division Response 2. Changed reporting section to rule language (0400-18-01-.05) on ATG, IM, and Piping flyers to:
  - "Owners and/or Operators must report any of the following conditions within 72 hours:
    - The discovery of released petroleum at the UST site or surrounding area.
    - Unusual operating conditions.
    - Monitoring results, including investigation of an alarm, that indicate a release may have occurred.
- If the system equipment is found to be defective but not leaking, is immediately repaired or replaced and additional monitoring within 30 days does not confirm the

## UST Division Public Comment Responses (cont'd)

New Operator Retraining Process – FINAL – October 2, 2024

October 2, 2024

---

initial result, reporting would not be required. See Rule 0400-18-01-.05(1) for specific details.”

- Division Response 3. For the owners’ and operators’ (O/O) convenience and documentation, the Division has established a new email address ([Releases.UST@tn.gov](mailto:Releases.UST@tn.gov)) for the purposes of reporting suspected/confirmed releases, with a subject line of “Report of Suspected or Confirmed Release” that provides a list of questions ...
  - UST Facility ID:
  - Facility Name:
  - Contact:
  - Contact Information:
  - Date and Time of Occurrence:
  - Date and Time of Response:
  - Describe What Happened AND Ongoing Investigation and Actions Taken:
  - {Be Sure to Attach Documentation and/or Photographs}
- ... to be answered by the O/O. Once emailed the O/O will receive an automatic reply confirming the report has been received. Division staff will be in contact the O/O within 2 business days to follow-up.”
- Division Response 4. The “unless” conditions of Rule 0400-18-01-.05(1)(a)2. & 3. are site-and occurrence specific. The reporting requirement depends upon action taken and timeframe.
- Liquid, condensation, moisture, and reporting conditions, are provided under the Division’s Rules:

Rules 0400-18-01-.05(1)(a)2 and 3 state:

- (1) Reporting Of Suspected Releases.
  - (a) Owners and/or operators of UST systems shall report to the division within 72 hours and follow the procedures in paragraph (3) of Rule 0400-18-01-.05 for any of the following conditions:
    2. Unusual operating conditions observed by owners and/or operators (such as the erratic behavior of petroleum dispensing equipment, the sudden loss of petroleum from the

## UST Division Public Comment Responses (cont'd)

New Operator Retraining Process – FINAL – October 2, 2024

October 2, 2024

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UST system, or an unexplained presence of water in the tank, or liquid in the interstitial space of secondary contained systems), unless:

- (i) The system equipment or component is found not to be releasing petroleum into the environment;
  - (ii) Any defective system equipment or component is immediately repaired or replaced; and
  - (iii) For secondarily contained systems any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed.
3. Monitoring results, including investigation of an alarm, from a release detection method required under paragraph (2) of Rule 0400-18-01-.04 that indicate a release may have occurred unless:
- (i) The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring within 30 days does not confirm the initial result;
  - (ii) The leak is contained in the secondary containment and conditions of subparts 2.(ii) and (iii) of this subparagraph are met;
  - (iii) The investigation determines no release has occurred; or
  - (iv) The alarm was investigated and determined to be a non-release event (for example, from a power surge caused by filling the tank during release detection testing).
- Rule 0400-18-01-.05(1)(a) mirrors the federal rule, 40 C.F.R. § 280.50, and identifies *liquid* in the interstitial space of a secondarily contained system and monitoring results, including investigation of an alarm, from release detection as suspected

## UST Division Public Comment Responses (cont'd)

New Operator Retraining Process – FINAL – October 2, 2024

October 2, 2024

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releases. The only difference is that the federal rule requires the suspected release to be reported within 24 hours while Tennessee's rule allows a release to be reported within 72 hours.

- This is also addressed in the Division's 6/17/2022 Standardized Inspection Manual:
  - Technical Chapter 3.4, "Secondary Containment and Interstitial Monitoring", found in the Division's Standardized Inspection Manual, instructs inspectors that water intrusion will interfere with properly conducting continuous monitoring with UST systems that have interstitial monitoring as release detection. Recurring presence of water (not related to condensation) must be reported to the Division as a suspected release within 72 hours in accordance with Rule .05(1)(a)2. and 3. unless the device or containment system is immediately repaired or replaced, and additional monitoring within 30 days eliminates water intrusion in the interstice as the cause of the alarm. Please see pages 14 and 15 at [https://www.tn.gov/content/dam/tn/environment/ust/doc/forms/sim/ust\\_sim.pdf#page=150](https://www.tn.gov/content/dam/tn/environment/ust/doc/forms/sim/ust_sim.pdf#page=150).
- EPA's Office of Underground Storage Tanks provides the following information for the discovery of liquid in an interstitial space in its Technical Compendium at <https://www.epa.gov/ust/underground-storage-tank-technical-compendium-about-2015-ust-regulation#secondarycontainment>:

### Release Reporting

### Implementing Agency Notification

**Question:** If the owner immediately responds to the alarm of liquid in an interstitial space, the liquid is removed, repairs made (if necessary) and everything is back in normal operating condition within 24 hours, is notification of the interstitial alarm condition still required to be made to the implementing agency within that 24 hour period? (Added: December 2015)

## UST Division Public Comment Responses (cont'd)

New Operator Retraining Process – FINAL – October 2, 2024

October 2, 2024

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**Answer:** Liquid in the interstitial space of secondarily contained systems is an unusual operating condition except when the interstitial space is filled with a liquid, such as brine for interstitial monitoring. Alarms must be investigated and their cause determined to ensure a release of product to the environment has not occurred. If the alarm is caused by liquid in the interstice and the liquid is immediately removed according to § 280.50(c)(2)(i) and defective system equipment is immediately repaired or replaced according to 40 CFR 280.50(c)(2)(ii), then owners and operators are not required to notify implementing agencies.

Owners and operators should check with their state UST implementing agencies since those requirements may be more stringent.

- EPA's rule, its technical compendium, and the Board's rule establish that any liquid in the interstitial space of secondary contained systems is an unusual operating condition that qualifies as a suspected release. None of the relevant authority specifies that "liquid" is limited to petroleum or petroleum contaminated water.

## UST Division Public Comment Responses (cont'd)

New Operator Retraining Process – FINAL – October 2, 2024

October 2, 2024

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### **TFCA Public Comment #17**

*The first bullet point under Operating IM Equipment “Interstitial sensors trigger an alarm:”*

**TFCA: Should this be Interstitial ?**

- Division Response 1. Changed to “Interstitial”.

### **TFCA Public Comment #18**

*Flyer #4 Piping Release Detection Methods*

*Recordkeeping and Requirements section, second bullet point in blue: Pressurized piping must have an annual line tightness test, or be monitored monthly with I/M, ELLD, or SIR.*

**TFCA: Should this say and maintain annual leak line detector tests for 3 years?**

- Division Response 1. See flyer first bullet point above the one referenced here.
  - “Test mechanical and electronic line leak detectors at least annually and maintain the last 3 annual test results.”