

Overview of Incorporations by Reference for the DEQ Underground Storage Tank Program

Docket No. 58-0107-1601

Required by Idaho Code § 67-5223(4)

An efficient way to implement new or updated federal regulations is to incorporate them by reference. Reproducing the Code of Federal Regulations in state rules is impractical and costly. Therefore when possible and as supported by Idaho industry, DEQ incorporates federal regulations by reference. Sections with no changes are also incorporated to ensure the state rules are consistent with federal regulations and to provide one set of rules for industry to follow. Idaho industry is required to comply with all applicable new and updated federal rules regardless of whether DEQ incorporates them by reference.

In addition, for DEQ to continue to be the implementing authority for the Underground Storage Tank Program in the state of Idaho, the agency is required to implement the newly revised Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs), 80 Fed. Reg. 41565-41683 (published 7/15/15; effective 10/13/15). DEQ is required to continually demonstrate that our underground storage tank program meets minimum federal requirements.

If DEQ's underground storage tank program does not meet EPA's minimum requirements, EPA could withdraw state program approval, or primacy, and underground and leaking underground storage tank federal funding.

The following table summarizes the Code of Federal Regulations section the DEQ Underground Storage Tank Program incorporates by reference.

40 CFR Part	Title	Changes During Past Year?	Impact on Idaho
280	Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST)	Yes	Yes

The following subparts were revised and will have an impact on Idaho facilities:

Subpart A: Program Scope and Installation Requirements for Partially Excluded UST Systems

- The section describes the applicability of the regulations, installation requirements, and definitions.
- The current update regulates previously deferred systems. This includes airport hydrant, field-constructed, and emergency power generator USTs.
- Any owners of these newly regulated systems will be required to comply with the regulations.
- The definition of “repair” was expanded to include repairs to piping, spill, overfill, corrosion protection, and release detection equipment.

- Definitions pertaining to operator training and secondary containment were also added but will not have an impact on Idaho facilities because they are not being adopted. These definitions are already contained in IDAPA 58.01.07 and are not necessary to maintain primacy.

Subpart C: General Operating Requirements

- The section describes spill and overfill, operation and maintenance, repairs, reporting and recordkeeping, periodic testing, and walkthrough inspections.
- The current update requires equipment compatibility with USTs storing over 10 percent ethanol or 20 percent biodiesel. Owners must notify DEQ 30 day prior to storing these substances.
- The current update requires testing after repairs to secondary containment areas, spill, and overfill equipment within 30 days following the date of the repair.
- The current update requires spill prevention and containment sumps used for interstitial monitoring of piping to be tested at least once every three years.
- The current update requires an overfill prevention inspection at least once every three years.
- The current update requires a walkthrough inspection every 30 days except containment sumps and hand-held release detection equipment can be inspected annually.

Subpart D: Release Detection

- The section describes all methods of tank and piping release detection.
- The current update requires release detection equipment be annually tested for proper operation.
- The current update adds statistical inventory reconciliation as another option for release detection.
- The current update requires a site assessment if ground water or soil vapor monitoring will be used as a release detection method.

The following parts were revised and will have minimal impact on Idaho facilities:

Subpart B: UST Systems: Design, Construction, Installation and Notification

- The section describes performance standards for new UST systems and notification requirements.
- The current update requires newly installed or replaced UST systems to have secondary containment but this will not have an impact on Idaho facilities because they are not being adopted. These definitions are already contained in IDAPA 58.01.07 and are not necessary to maintain primacy.
- The current update prohibits the installation of flow restrictors and requires spill and overfill prevention equipment be periodically tested. Flow restrictors will have a minimal impact due to a lack of prevalence but the testing of spill and overfill prevention equipment will be required every three years and have a cost associated with it.
- The current update includes permanently closing tanks that have a failed lining inspection when the lining can't be repaired. This will have a minimal impact because the lining can be repaired.

- The current update includes notifying DEQ within 30 days of assuming ownership of an UST. This will have minimal impact because DEQ will provide the form and there is no cost associated with notification.

Subpart E: Release Reporting, Investigation, and Confirmation

- The section describes when to report suspected releases and release investigation steps.
- The current update includes liquid in the interstice as a suspected release condition.
- The update requires the test to determine whether a breach of either wall of the secondary containment has occurred.

Subpart G: Out-of-Service UST Systems and Closure

- The section describes how to place a tank into temporarily out of use service and how to close an UST.
- The current update specifies that release detection operation and maintenance and spill and overfill testing are not required for temporarily out of use tanks.

The following parts were revised but are administrative in nature:

Subpart F: Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances

- The section describes how to respond, investigate, and clean up a leak.
- The current update only includes changing the spelling of groundwater.

Subpart H: Financial Responsibility

- The section describes approved financial responsibility mechanisms.
- The current update removes obsolete dates and references.

Subpart I: Lender Liability

- The section describes entities that will not be subject to certain sections of Subparts E and H.
- The current update removes obsolete dates and references.

The following part was revised but Idaho does not have any affected facilities:

Subpart J: Operator Training

- The section describes the operator training provisions.
- This subpart is excluded from adoption because the provisions are already contained in IDAPA 58.01.07 and are not necessary to maintain primacy.

Subpart K: UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems

- The section describes the requirements for field-constructed and airport fuel hydrant systems.
- DEQ is not aware of any of these types of systems that would be subject to these provisions.