

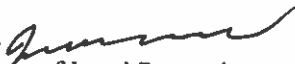
**MEMORANDUM**  
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**DIVISION OF LAND PROTECTION AND REVITALIZATION**  
**OFFICE OF SPILL RESPONSE AND REMEDIATION**

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**SUBJECT:**     **Guidance Document LPR-SRR-2016-04**  
                  **Storage Tank Program Compliance Manual Volume 2: Registration & Closure**

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**Summary:**

This volume of the Storage Tank Program Compliance Manual provides guidance to DEQ staff on the registration and closure requirements applicable to regulated underground and aboveground storage tanks.

This guidance supersedes the following guidance:

Guidance No. 01-2025 - Volume II of the Storage Tank Program Compliance Manual – Registration & Closure that was effective October 12, 2001,

**Electronic Copy:**

An electronic copy of this guidance in PDF format is available for staff internally on DEQNET, and for the public on DEQ's website at:

<http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/Laws.Regulations.Guidance.aspx>

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**Disclaimer:**

Guidance documents do not establish or affect legal rights or obligations, do not establish a binding norm, and are not determinative of the issues addressed. Decisions in individual cases will be made by applying the laws, regulations, and policies of the Commonwealth to case-specific facts.

STORAGE TANK PROGRAM COMPLIANCE  
MANUAL  
VOLUME II  
REGISTRATION & CLOSURE

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# 1 Introduction

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This volume of the compliance manual provides guidance to staff on registration and closure requirements for Underground Storage Tanks (USTs) and Aboveground Storage Tanks (ASTs). This volume includes instructions on how to process registration forms and requirements for completing forms.

## 2 Registration and Notification

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### 2.1 Purpose

Owners of regulated petroleum storage tanks are required to register their tanks with DEQ and notify DEQ when certain events occur<sup>1</sup>. The tank notification and registration program primarily serves to:

- Identify and locate regulated tanks;
- Inventory USTs that store or have stored petroleum or hazardous substances;
- Inventory ASTS and the accumulated storage capacity at each facility in order to establish the operating requirements that apply to the facility;
- Identify the party responsible for pollution prevention compliance and cleanup of petroleum releases or discharges; and
- Establish compliance requirements applicable to the tank equipment installed.

DEQ staff use the information provided through the registration process to determine which compliance requirements apply to the tank owner/operator.

### 2.2 Who Must Register

#### 2.2.1 UST

Owners of regulated substance USTs that were in the ground as of May 8, 1986, or that were brought into use after May 8, 1986, must notify DEQ when certain events occur. A UST owner is:

- Any person who owns a UST used for the storage or dispensing of regulated substances that was in use on or brought into use after November 8, 1984; or

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<sup>1</sup> UST notification requirements are set out in Section 70 of the Underground Storage Tanks: Technical Standards and Corrective Action Requirements Regulation, 9 VAC 25-580.

- Any person who owned a UST immediately before the discontinuation of its use for the storage or dispensing of regulated substances if the tank was no longer in use as of November 8, 1984.

A tank owner is not required to register a tank if he or she can demonstrate that the tank was not in operation as of January 1, 1974. However, real property owners who have actual knowledge of USTs on their property that were taken out of service before January 1, 1974 yet are still in the ground must notify DEQ, in writing, of the existence of the tanks.<sup>2</sup>

### **Ownership Issues**

Occasionally, the tank inspector must determine who the correct owner should be for compliance and registration in situations where the owner identified on the registration form disputes ownership or no registration form has been submitted to identify the tank owner. In cases where there is disagreement between parties (e.g. a landlord and tenant, operator and fuel supplier, etc. ) as to the ownership of USTs, regional staff should obtain any documentation relevant to ownership (e.g., lease, bill of sale, deed, service contract, etc.) and consult with OSRR.

Ownership disputes may also come about because the original registered owner claims to have sold the USTs or has become defunct (as a business entity). In some cases, the registered owner may be able to demonstrate he sold the tanks through submission of a Notification for Underground Storage Tanks Change of Ownership by Former Owner (Form 7530-3A) and supporting documentation (see [Section 2.6](#) for more information on the review process).

For more information on handling defunct legal entities, see Section 4.1.1 of [Volume IV](#).

### **Landowners as Tank Owners**

In cases where there is no identifiable tank owner, tank staff may consider the landowner as a potential tank owner. In the past, DEQ generally considered the landowner to be the UST owner only in those cases where (1) the registered UST owner and the landowner are the same; or (2) the UST is not registered with DEQ. DEQ took this approach because the UST owner could be a different entity than the landowner and the UST notification form was considered sufficient to identify the UST owner when the UST owner and landowner differed. DEQ considered the notification form a reflection of the parties' intent to separate the UST from the

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<sup>2</sup> In addition, beginning October 24, 1988, any person who sells a tank intended to be used as a UST must notify the purchaser of the notification requirements.

land such that it became the personal property of the entity registering the UST rather than a fixture that existed as part of the land, like a wall or a fence.

From a property law standpoint, however, courts generally consider USTs to be fixtures<sup>3</sup> rather than personal property. The analysis used by courts to identify whether an item is a fixture emphasizes the UST owner's intent to make the item a permanent addition to the real property. Although DEQ has considered the UST notification form dispositive on the issue of intent in the past, case law, as well as other states' practice, support treating the UST as a fixture in these situations where a breakdown in the relationship between the landowner and the UST owner has occurred. Consequently, a landowner may be considered the tank owner in those situations where the tank is a fixture to the land. Contact OSRR for help in analyzing whether a UST is a fixture in a particular case.

### **Lenders**

An entity that meets the definition of a lender is not considered a UST owner and has no duty to register a tank with DEQ as an owner. For a more complete discussion of the lender exemption and the exemption application process, see [Volume IV](#) of the Manual (Section 4.4) and [The Lender Liability Guidance](#). Lenders are still required to notify DEQ when placing USTs into temporary closure and should use the Form 7530-3 to do so.

### **2.2.2 AST**

The operator of a facility or AST must register an AST if any individual AST<sup>4</sup> at the facility has a capacity of more than 660 gallons of oil. This includes unlicensed motor vehicles and rolling stock (train cars) used solely for the storage of oil. An "operator" is any person who owns, operates, charters by demise, rents, or otherwise exercises control over or responsibility for a facility. Although the term "operator" includes many different entities, DEQ will first pursue the owner of the facility to obtain compliance with registration and notification requirements.

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<sup>3</sup> Generally, courts apply a three-part test when analyzing whether a tank becomes a fixture of the real property. The test looks at:

1. The nature of the tank's annexation to the realty and the annexation's degree of permanency,
2. The tank's adaptation to the property's use or purpose, and
3. The UST owner's intention to make it a permanent addition to the real property.

*Danville holding Corp. v. Clement*, 178 Va. 223, 232, 15 S.E.2d 245, 250 (1941).

<sup>4</sup> Section 25-91-30 of the Facility and Aboveground Storage Tank (AST) Regulation, 9 VAC 25-91, contains a list of excluded tanks. Staff should consult the regulation, when necessary, to determine whether a tank must be registered.



An owner's duly authorized representative can sign and submit a registration on the owner's behalf. The authorized representative must be one who has management authority over the facility or entity or authority over environmental matters for the facility or entity. Authorization must be in writing and signed by the owner.

## **2.3 When Registration is Required**

### **2.3.1 USTs**

Multiple events can trigger the registration requirement. An owner of a UST is required to register new facilities or changes to facilities after:

- Bringing a UST system into use;
- Any change in ownership;
- Any change in tank status, such as the temporary or permanent closing of any tank(s) or piping;
- Any change in tank/piping systems or upgrade, such as the addition of corrosion protection or internal lining;
- Any change in the type of release detection being conducted for any tank and/or piping; and
- Any change in the substance being stored in any tank, such as a change from petroleum to a hazardous substance or to an unregulated substance.

UST owners are required to register their tanks within 30 days of any of these triggering events.

### **2.3.2 ASTs**

A facility operator must register new AST facilities and changes at AST facilities with DEQ and notify DEQ of certain activities that occur at a facility. Specifically, a facility operator must notify DEQ within 30 days after:

- Bringing into service any:
  - New AST or AST facility,
  - Converted AST or AST facility, such as a change from a UST to an AST<sup>5</sup>, and
  - AST or AST facility that was permanently out of service prior to being brought back into use;

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<sup>5</sup> A change from a UST to an AST occurs when a buried tank (greater than 10% beneath the ground) is unearthed (less than 10% beneath the ground). When a UST is unearthed and becomes a regulated AST, the UST must be registered closed, a proper closure assessment must be conducted, and the AST must be registered.

- Any change in ownership;
- Any AST or piping closure, which includes tank replacement;
- Any upgrades, such as the addition of a double bottom, ring wall or berm;
- Any major repairs;
- Any relocating or repositioning of an AST within the same facility;
- Any change in service that may affect the tank's suitability for service, such as a change in:
  - Operation,
  - Conditions of the stored product,
  - Specific gravity of product,
  - Corrosive content,
  - Temperature, and
  - Pressure; and
- Any changes in the substance being stored in any tank, including a change from a petroleum substance to a non-petroleum/unregulated substance.

Although the AST Regulation differentiates between registrations and notification, for purposes of registration review and processing, the two activities are the same.

### Temporary Tanks

ASTs that are on a facility property for less than 120 days and meet one of the following conditions are excluded from all state AST regulatory requirements: (1) the AST is used for containment and cleanup of an oil discharge; (2) the AST is used by a government entity for emergency response; or (3) the AST is used temporarily to replace permanent storage capacity. However, small ASTs may appear temporarily on a site, which do not meet one of the three conditions above. For example, a small AST may be located on a property for 6 weeks to store fuel for short-term construction activities. Generally, only registration and closure requirements apply to these tanks due to the storage capacity of the facility. Because of program resource constraints and the low environmental risk these small, temporary tanks present, staff may use discretion in whether to pursue compliance with the registration and closure requirements of the regulation if the tanks are on site less than 120 days, regardless of whether any of the above-mentioned conditions exist. Tanks that are moved from location to location at the same site would not be considered temporary tanks for purposes of this section.

### AST Renewals

A facility owner must renew the registration of an AST or AST facility every five years by submitting a complete registration form to DEQ. The five year renewal period is calculated

based on the original registration date. If a new tank is registered at an existing facility, the new tank assumes the pre-existing renewal schedule of the original facility registration.

## 2.4 Registration Forms

### 2.4.1 USTs

**Notification for Underground Storage Tanks (USTs), Form 7530-3:** Owners notify DEQ of new UST systems or changes to those systems using this form. The information on the form assists regional compliance staff in determining compliance requirements applicable to the registered USTs. The form may be found on the [Files and Forms page](#) of the petroleum programs webpage.

**Notification for Underground Storage Tanks Change of Ownership by Former Owner, Form 7530-3A:** Former owners may notify DEQ of the sale of USTs to a new owner using this form. The form must be accompanied by documentation of the facility or tank transfer such as:

- Bill of Sale, including any additional appendices;
- Purchase Agreement;
- Operating Agreement;
- Lease; or
- Articles of Merger.

The form may be found on the [Files and Forms page](#) of the petroleum programs webpage.

**Notification for Underground Storage Tanks Multiple Facility Amendment, Form 7530-3B:** Owners use this form to notify DEQ of simple changes to owner information or tank systems that apply to multiple facilities. This form can be used for the following changes:

- Owner name change;
- Owner address change;
- Owner contact information change; and
- Change in release detection method that applies to all tanks and/or piping at the facility.

In lieu of a 7530-3B Form, staff may also accept notifications of changes to ownership information such as name changes, address changes, or changes to contact information through a letter or an email sent by the owner or an authorized representative of the owner. Name changes (not change of ownership) must be supported by documentation, such as State Corporation Commission records.

**The 7530-3B Form cannot be used for ownership changes.** Ownership changes, whether they involve a single facility or multiple ones, must be documented on the Form 7530-3. The 7530-3B Form cannot be used to register facility closures.

The form may be found on the [Files and Forms page](#) of the petroleum programs webpage.

## 2.4.2 ASTs

**Registration for Facility and Aboveground Storage Tank (ASTs), Form 7540-AST:** Owners or their representatives, register new ASTs or facilities, or changes to existing ASTs or facilities, through the Registration for Aboveground Storage Tank Form 7540-AST. Certain sections of the form are only applicable to facilities with a storage capacity of at least 25,000 gallons and facilities with a storage capacity of at least one million gallons. The information on the form assists regional compliance staff in determining compliance requirements applicable to the registered ASTs. The form may be found on the [Files and Forms page](#) of the petroleum programs webpage.

## 2.5 Statutory and Regulatory Interpretations

### 2.5.1 UST

Interpretations of the statutes and regulations relating to UST notifications are located in Volume III of the Storage Tank Program Compliance Manual.

### 2.5.2 AST

Interpretations of the statutes and regulations relating to AST registration are located in Volume V of the Storage Tank Program Compliance Manual.

## 2.6 Registration Processing

Registration processing consists of reviewing an AST or UST registration form for completeness, obtaining revised forms from the owner when necessary, entering tank data from the form into CEDS, and uploading or scanning registration documents into DEQ's Enterprise Content Management System (ECM). Generally, regional office staff review UST and AST registration and notification documentation and perform data and document entry.

## **2.6.1 Registration Form Processing**

Staff process registration forms by reviewing the forms for completeness and accuracy and entering the tank and facility data into CEDS. If staff receive a form with obvious discrepancies (not amendments) from the previously received registration forms, then the discrepancies should be resolved with the tank owner prior to processing the current form. Because CEDS data screens are modeled after the registration forms, processing the forms is generally straightforward. However, there are a few specific issues related to form processing that merit additional discussion.

### ***2.6.1.1 Signatures***

Registration forms must be signed. In the case of UST registration forms, the signature must be the original signature of the owner, unless the form is submitted to document closure. In those cases, the owner's consultant may sign if the owner has already established ownership through a pre-existing Form 7530-3. For AST forms, the owner or the owner's authorized representative may sign.

### ***2.6.1.2 Electronic Submissions***

Although the signature must be an original one (not electronically or digitally created and applied), staff may accept an electronic transmittal of the Form if it is sent from the owner's (or representative's) email account or fax number. In those cases, staff should use Nuance PDF Converter to complete the State Use section of the UST or AST Form.

### ***2.6.1.3 Central Office Registration Processing Coordination***

Although regional office staff generally performs registration reviews and data entry, some registration reviews require coordination with Office of Spill Response and Remediation (OSRR) staff.

### **Form 7530-3A Processing (Registration by Former Owners)**

When an owner sells USTs at one or more facilities, the new owner is required to complete and submit a Form 7530-3 for each facility. However, the former owner of a UST may also request that DEQ change the ownership by submitting a Notification for Underground Storage Tanks Form 7530-3A with documentation attached that clearly demonstrates legal transfer of tank ownership. Acceptable documentation includes:

- A signed bill of sale that specifically describes the tank system,

- A deed that mentions the tanks,
- Lease agreements,
- Operating agreements, or
- Articles of merger.

If the documentation does not clearly demonstrate transfer of ownership, compliance staff should forward the documentation to OSRR legal staff for review. OSRR staff will contact the appropriate regional office staff with a decision on whether the documentation is sufficient to change the ownership designation in CEDS.

**Note:** New owners are required to submit a registration form (Form 7530-3) even if DEQ accepts a 7530-3A from the former owner as valid documentation of an ownership transfer.

### **Global Ownership and Name Changes**

Occasionally, owners, rather than facilities, change hands which may impact tank ownership. Sometimes, when a company owning tanks is sold to another company, the sale can impact tank ownership across DEQ regional boundaries. If the company sold retains its separate legal status, tank ownership may not change. However, if the company sold then merges into the purchaser, a tank owner change will be necessary. In these cases where the change affects facilities in multiple regions, regional staff should submit any paperwork provided by the entity requesting the change to OSRR registration staff who will research the transfer. If an owner change is appropriate, OSRR staff will document each impacted facility file in ECM, make the appropriate changes in CEDS and notify regional inspection staff of the changes made. Similarly, if a tank owner changes its name or owner contact(s) and the change impacts facilities in multiple regions, regional staff should refer the documentation to OSRR to process.

### **2.6.2 Combining and Splitting Registration Facilities**

Rarely, staff may need to combine or split registered tank facilities in the database. For example, duplicate facilities may exist in the database that should be combined into one, or staff may wish to split a geographically large or complex facility into two or more smaller facilities for ease of handling. Due to the complications that splitting facilities may cause for Freedom of Information Act (FOIA) processing, staff should only split those facilities that are of the size and complexity to warrant treating as separate regulated entities. Staff should consult with Central Office staff before splitting an existing facility.

If the decision is made to combine or split a registered tank facility, staff should keep in mind the following:

1. When splitting a tank facility into two or more separate facilities, staff must link all the newly created facilities to a **single Core CEDS facility** to facilitate FOIA processing.
2. If a remediation site or sites are linked to the original facility, they may need to be re-linked to a new facility.
3. Staff must properly allocate all affected documents in ECM to the new facility(ies) by re-indexing documents with the appropriate facility number. This may not be limited to registration documents; remediation and enforcement documents are sometimes tagged with a facility number. In those cases, staff will also need to re-index these documents to associate them to the correct tank facility.

## 2.7 Document and Data Entry Protocols

Staff must follow the protocols in Section XVI of the [Petroleum Program ECM User Manual](#) for scanning or adding registration documents into ECM. The [CEDS Tanks Compliance and Registration User Manual](#) contains step-by-step instructions governing how to enter tank registration data into CEDS.

## 3 Storage Tank Closure

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Properly closing inactive or outdated storage tank systems is an important measure in preventing ongoing and/or future releases from tank systems. The procedures required for storage tank closure vary depending upon site conditions and the set of regulations which govern the individual tank system. Due to the regulatory framework within which storage tank closure must take place, closure procedures/requirements for regulated tanks and tanks partially deferred from the regulation will be discussed separately from other types of storage tanks such as excluded, deferred and exempt USTs and ASTs. Regardless of tank type, tank owners and operators must report contaminated soil, free product, or other indicators of a release to DEQ and initiate release response and corrective action.

Compliance staff should coordinate with remediation staff in the event the closure documents submitted indicate a petroleum release has occurred or may have occurred.

### 3.1 UST Closure Review

The UST regulation imposes requirements on two types of tank closure: temporary and permanent closure. This section discusses permanent UST closure. Because temporarily closed tanks are considered “active” tanks, temporary closure is discussed in [Volume III](#) of this Manual.

### 3.1.1 UST Closure Process

Regional compliance staff generally are responsible for the review of all closure documentation, including the UST Notification Form (7530-3). Compliance staff are also responsible for communicating with tank owners regarding the status of their closure documentation.

[Appendix C](#) provides some sample closure letters to respond to different closure scenarios.

[Appendix B](#) contains a UST Closure Fact Sheet that staff may provide to owners or operators to help them meet the regulatory requirements for closure.

### 3.1.2 Closure Requirements for Regulated USTs and Partially Deferred USTs

This section outlines the requirements for closure of regulated UST systems and partially deferred USTs in accordance with Sections 320 and 330 of the UST Technical Regulation<sup>6</sup>.

Generally, by December 22, 1998, tank owners and operators were required to permanently close all substandard (non-upgraded) UST systems or temporarily close if certain conditions were met. For a discussion of temporary closure requirements, see [Volume III](#) of this Manual. Staff should consult with OSRR staff if they encounter a substandard UST to discuss compliance and/or enforcement options<sup>7</sup>.

UST system closure includes closure of the underground tank, connected underground piping, underground ancillary equipment, and/or the containment system, if any. If the UST will remain in service but product lines are taken out of service or replaced, the UST owner or operator must close the lines in accordance with the UST Technical Regulation.

#### **Partial Removal and Replacement of a Piping System**

Sometimes tank owners perform partial piping closures by removing the inner piping (single- or double-walled) from a chaseway<sup>8</sup> and installing new piping in the existing chaseway. As a matter of policy, DEQ does not require closure samples when single- or double- walled piping is merely removed from a chaseway and replaced unless evidence indicates the piping or chaseway is in poor condition, has been damaged, or otherwise is no longer structurally sound. Soil samples are required for closure of single- or double-walled piping contained in a chaseway when (1) the chaseway is removed, or (2) the piping is not replaced within the existing chaseway.

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<sup>6</sup> 9 VAC 25-580 *et seq.*

<sup>7</sup> USTs that are not equipped to comply with the UST Technical Regulation are subject to expedited delivery prohibition.

<sup>8</sup> A chaseway is a liquid tight conduit that contains underground storage tank piping.



### 3.1.2.1 UST system closure steps

The following steps must be performed by a tank owner or operator to close a regulated or partially deferred UST:

- The owner or operator must contact the local building official or the building official's designee (often the fire official) and obtain a building permit to proceed with the UST closure.<sup>9</sup> Inspections and site visits by the local code official must be coordinated through that official's office. A copy of the building permit must be included in the closure report. In the rare cases where the local building or fire official chooses not to issue a permit for tank and/or piping closure or the tank owner failed to obtain a permit at the time of closure, the tank owner or operator may write a letter describing the facts or they may submit the "Building Permit Certification Form" found in [Appendix D](#). If the local building or fire officials did not issue a permit for tank or piping closure upon the tank owner's request, DEQ staff should notify the UST Compliance Coordinator.

**Note:** A representative of the Department of General Services functions as the building official for facilities owned by the Commonwealth.<sup>10</sup>

- The owner or operator must remove all regulated substances, including sludges, from the tank. Removal of the sludges may require professional tank cleaning. In all instances, the owner/operator is responsible for ensuring that all steps in the tank closure process are carried out in a manner that minimizes the risk of explosion due to vapors and other hazards. The regulated substance and sludge removed from the tank must be properly disposed of in accordance with the Virginia Solid Waste Management regulations. Copies of sludge disposal manifests should be included in the closure report but are not required.
- It is recommended (but not required by the UST regulation) that the USTs be removed from the ground if at all possible; however, for structural reasons (e.g., proximity to building foundations), closure in place may be the only viable option. Owners should consult with the local building and/or fire officials prior to closing a tank in the ground, since the local codes may not permit in-place closure of USTs. Where allowed by the

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<sup>9</sup> Underground and aboveground storage tanks are "structures" as defined in the Uniform Statewide Building Code (Va. Code §§ 36.1-1 et seq.) which require a permit for installation, modification or removal.

<sup>10</sup> The Department of General Services has delegated its permit authority to the Virginia Department of Transportation (VDOT) for all VDOT facilities.

local code official, USTs may be closed in place by filling them with an inert substance that is approved by the local code official (e.g., sand, gravel, cement slurry) subsequent to product/sludge removal and tank cleaning. Disposal manifests for the tank and soil should be included in the closure report.

- The tank owner/operator must perform and submit a site closure assessment ([Section 3.1.2.1.1](#)) in all cases except where a UST has been monitored monthly with vapor detection wells or groundwater monitoring wells immediately prior to closure, and monitoring indicates that no release has occurred. If vapor or groundwater monitoring is used in lieu of soil or groundwater sampling, then the past 12 months of vapor or groundwater monitoring<sup>11</sup> records must be submitted and all the regulatory requirements for those release detection methods must be met.
- Within 30 days after closure, the tank owner or operator must submit an amended UST Notification Form (Form 7530-3) for the tank(s) closed as part of the Tank Closure Report to the appropriate DEQ regional office. In instances where a release is reported to the regional office, only the UST Notification Form and building permit need to be submitted, and a complete Tank Closure Report is not required because a release investigation is in progress.
- The tank owner/operator must report contaminated soils or groundwater or the presence of free product to DEQ within 24 hours of observation. **The submittal of a tank closure report does not meet the release reporting requirement.**

#### 3.1.2.1.1 UST Closure Assessment Requirements

Section 330 of the UST Technical Regulation requires that a UST site be assessed at the time of closure. The purpose of this assessment is to evaluate whether a release from the UST system occurred. As part of this assessment, the owner or operator must measure for the presence of a release where a release would most likely be detected. Because releases may occur from any portion of the UST system that routinely contains product, the owner or operator must assess the product lines and dispenser area as well as the tank basin (i.e., excavation zone as established at installation). Site assessment is required even when only the product lines are

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<sup>11</sup> The UST regulation only allows vapor or groundwater monitoring to be used in lieu of soil sampling because other methods of tank and piping release detection may not be capable of identifying contamination from spill buckets, fill and ATG risers, dispenser leaks, submersible turbine pumps, and other UST system components. Therefore, other release detection records are not acceptable for UST closures.



















































































