

Title 10--DEPARTMENT OF NATURAL RESOURCES
Division [20]26 – [Clean Water Commission] Petroleum and Hazardous Substance
Storage Tanks
Chapter [10]2 -- Underground Storage Tanks--Technical Regulations

10 CSR [20]26-[10]2.010 Applicability

PURPOSE: This rule defines the underground storage tanks that are subject to the requirements of this chapter. This rule contains the technical standards for underground storage tanks. This rule is designed specifically to protect the quality of groundwater in the state as well as to protect human health and the overall quality of the environment. This rule is promulgated on the authority of sections 319.100 and 319.137, RSMo and, as directed by this law, is based upon federal rules 40 CFR 280.10 and 40 CFR 280.74.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by law.

(1) The requirements of this chapter apply to all owners and operators of an underground storage tank (UST) system as defined in 10 CSR [20]26-[10]2.012, except as otherwise provided in sections (2) – [(4)](8) of this rule. Any UST system listed in section (3) of this rule must meet the requirements of 10 CSR [20]26-[10]2.011.

(2) The following UST systems are excluded from the requirements of this chapter:

(A) Any UST system holding hazardous wastes listed or identified in the Missouri Hazardous Waste Management Law, sections 260.350 260.434, RSMo and the rules promulgated thereunder or a mixture of hazardous waste and other regulated substances, except for waste oil as defined in 10 CSR 25-11.279;

(B) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act (33 U.S.C.A. 1251);

(C) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

(D) Any UST system whose capacity is one hundred ten (110) gallons or less;

(E) Any UST system that contains a de minimis concentration of regulated substances; and

(F) Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

(3) [Deferrals.] Rules 10 CSR [20]26-[10]2.020 – 10 CSR [20]26-[10]2.053 and closure requirements in 10 CSR [20]26-[10]2.0[7]60 – 10 CSR [20]26-[10]2.0[7]64 do not apply to any of the following types of UST systems:

(A) Wastewater treatment tank systems;

(B) Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following);

(C) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50 Appendix A;

(D) Airport hydrant fuel distribution systems; and

(E) UST systems with field-constructed tanks.

(4) [*Deferrals.*] The release detection requirements of rules 10 CSR [20]26-[10]2.040 – 10 CSR [20]26-[10]2.045 do not apply to any UST systems that store fuel solely for use by emergency power generators.

(5) Owners and operators of UST systems from which a release of regulated substances has occurred and to which this chapter applies need not meet the risk-based corrective action requirements of rules 10 CSR 26-2.075 through 10 CSR 26-2.082 otherwise applicable to the release if:

(A) Prior to the effective date of 10 CSR 26-2.075, the owner or operator had received the department's written approval of a work plan pertaining to the UST system release;

(B) The owner or operator fully implements the work plan referenced at section (5)(A) of this rule within one year of the effective date of 10 CSR 26-2.075 or in accordance with a different schedule approved by the department in writing; and

(C) In addressing the UST system release, the owner or operator complies with a written procedure or procedures that address the basic elements of the risk-based process including site characterization, risk assessment, and corrective action to an extent that provides adequate protection of human health and the environment, subject to approval of the department.

1. If the owner or operator fails to adequately address any of the basic elements, the department may require the owner or operator to meet all applicable risk-based corrective action requirements of rules 10 CSR 26-2.075 through 10 CSR 26-2.082.

2. A written procedure that complies with the department's *Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks* guidance document dated January 2004, as modified in March 2005, and the title 10, division 20, chapter 10 rules in place immediately prior to the effective date of 10 CSR 26-2.075 satisfies the requirements for this deferral.

(6) Owners and operators of USTs to which this chapter applies need not meet the requirements of 10 CSR 26-2.062 if:

(A) Prior to the effective date of 10 CSR 26-2.075, the owner or operator has submitted a closure notice for one or more specific tanks to the department in compliance with 10 CSR 26-2.061(1) (formerly 10 CSR 20-10.071(1)) but has not yet begun or completed closure or change in service activities for the specific tank or tanks required by 10 CSR 26-2.060 (formerly 10 CSR 20-10.070), 10 CSR 26-2.061 (formerly 10 CSR 20-10.071), or 10 CSR 26-2.062 (formerly 10 CSR 20-10.072);

(B) For the tank(s) that is the subject of the closure notice referenced at section (6)(A) of this rule, the owner or operator completes closure or change in use activities and submits a complete closure report in accordance with 10 CSR 26-2.062(10) within one-year of the effective date of 10 CSR 26-2.075 or in accordance with a different schedule approved by the department in writing; and

(C) The owner or operator closes the tank or conducts a change in use evaluation in compliance with a written procedure that addresses the basic elements of a tank closure or change in service evaluation to an extent that provides adequate protection of human health and the environment, subject to approval of the department.

1. If the owner or operator fails to adequately address any of the basic elements, the department may require the owner or operator to meet all requirements of 10 CSR 26-2.062;

2. A written procedure that complies with department's *Missouri Risk-Based Corrective Action (MRBCA) Process for Petroleum Storage Tanks* guidance document dated January 2004, as modified in March 2005, and the title 10, division 20, chapter 10 rules in place immediately prior to the effective date of 10 CSR 26-2.075 satisfies the requirements for this deferral.

(7) Temporarily closed tanks. Owners and operators of a UST to which this chapter applies that is in temporary closure in compliance with the requirements of 10 CSR 26-2.060 on the effective date of 10 CSR 26-2.075 and that is subsequently permanently closed or for which a change in service occurs must comply with the requirements of this chapter.

(8) Except as provided for at section (6) above, owners and operators of USTs to which this chapter applies that are permanently closed or for which a change in service occurs after the effective date of 10 CSR 26-2.075 must comply with the requirements of this chapter.

AUTHORITY: sections 319.100, 319.105, 319.107, 319.111 and 319.114, RSMo [1994] **2000** and **260.370**, 319.109, [319.132] and 319.137, RSMo Supp. [1995]**2007**. * Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Jan. 2, 1996, effective Aug. 30, 1996.

*Original authority: 319.100, RSMo 1989, amended 1991, 1993; 319.105, RSMo 1989; 319.107, RSMo 1989, amended 1994; 319.109, RSMo 1989, amended 1995; 319.111, RSMo 1989; 319.114, RSMo 1989; [319.132, RSMo 1991, amended 1995;] 319.137, RSMo 1989, amended 1993, 1995.