

Curran, Kimberley

From: Burns, Bill
Sent: Friday, January 31, 2014 2:21 PM
To: 'Amie Ochsenfeld'
Cc: Curran, Kimberley
Subject: RE: 2013 Drafted Rules for USTs in Florida

Amie:

Thank you for submitting your comments to the proposed revision to the rule.

William E. Burns, Jr.
Environmental Administrator
Compliance Assistance
Division of Waste Management
Department of Environmental
Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400
850/245-8842



Please consider the environment before printing this email.

From: Amie Ochsenfeld [mailto:amie_ochsenfeld@hotmail.com]
Sent: Friday, January 31, 2014 1:58 PM
To: Burns, Bill
Subject: 2013 Drafted Rules for USTs in Florida

Mr. Burns,

Our company will be affected by changing sections 62-761.600 Release Detection Requirements & 62-761.710 Record keeping. So we would recommend keeping these sections as they were originally.

**Thank You,
Amie Ochsenfeld**

Curran, Kimberley

From: Burns, Bill
Sent: Friday, January 31, 2014 3:08 PM
To: 'Jennifer Grant'
Cc: Curran, Kimberley
Subject: RE: Florida Rule Changes.doc

Ms. Grant:

Thank you for your comments.

William E. Burns, Jr.
Environmental Administrator
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Please consider the environment before printing this email.

From: Jennifer Grant [mailto:jennifer@1stchoice-inc.com]
Sent: Friday, January 31, 2014 2:26 PM
To: Burns, Bill
Subject: Florida Rule Changes.doc

I do not agree with changing the rules for a monthly inspection. Using the Electronic Release detection in place of the monthly visual inspections is not a good idea simply because an electronic sensor will not alert you if there are any holes or cracks, nor will it alert you if the boots are bad...etc. There is a need for the monthly inspections, one of the reasons being checking the sumps for the sensors to make sure they are still there and in the correct location of the sump. Having the monthly inspections will also keep all your information up to date and keep any leaks from becoming spills.

Thank You,
Jennfier Grant
1st Choice Compliance
[Jennifer@1stchoice-inc.com](mailto:jennifer@1stchoice-inc.com)

(888)325-0117 EX:115

Curran, Kimberley

From: Burns, Bill
Sent: Friday, January 31, 2014 3:12 PM
To: 'Jeannie Hartley'
Cc: Curran, Kimberley
Subject: RE: Drafted Rules for UST's in Florida

Ms. Hartley:

Thank you for your comments.

William E. Burns, Jr.
Environmental Administrator
Compliance Assistance
Division of Waste Management
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2600 Blair Stone Road
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Please consider the environment before printing this email.

From: Jeannie Hartley [mailto:jeannie@1stchoice-inc.com]
Sent: Friday, January 31, 2014 3:05 PM
To: Burns, Bill
Subject: Drafted Rules for UST's in Florida

Good Afternoon Mr. Burns,
I needed to contact you and express my concern about these new regulations.

In 62-761.600 for the Release Detection Requirements, my concern is that this rule completely disregards the fact that things need maintenance. If the electronics go bad or need calibration, then how is an owner/operator going to know that something is damaged in the system in the case that they are not having someone open everything up and look at it monthly? A crack could develop in an inconspicuous place, or rust could begin to eat away at parts. The electronics do not notify you of everything that could go wrong. Monthly visual inspections are needed to keep things running smoothly and help prevent damage that could eventually cause a release.

I hope that you take my thoughts into consideration.

Thank You

--

Jeannie Hartley

Executive Project Manager

1st Choice Compliance

P.O. Box 70246

Albany, GA 31708-0246

235 W. Roosevelt Ave. Ste. 250

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Direct: [229-255-3396](tel:229-255-3396)

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Curran, Kimberley

From: Burns, Bill
Sent: Monday, February 03, 2014 7:51 AM
To: Denise Purvis
Cc: Curran, Kimberley
Subject: RE: Comments to 2013 Draft CHAPTER 62-761 UNDERGROUND STORAGE TANK SYSTEMS

Ms. Purvis:

Thank you for your comments to the proposed rule revisions.

William E. Burns, Jr.
Environmental Administrator
Compliance Assistance
Division of Waste Management
Department of Environmental
Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400
850/245-8842



Please consider the environment before printing this email.

From: Denise Purvis <denise@1stchoice-inc.com>
Sent: Friday, January 31, 2014 4:58 PM
To: Burns, Bill
Subject: Comments to 2013 Draft CHAPTER 62-761 UNDERGROUND STORAGE TANK SYSTEMS

Mr. Burns,

We believe that the following changes to Chapter 62-761 of UST Systems should be as it was originally listed in the rules. Please see the comments below for specifics.

Thank you.

CHAPTER 62-761 UNDERGROUND STORAGE TANK SYSTEMS

62-761.600 Release Detection Requirements

Need to change it back to require monthly visual inspections.

1(e)--The new rule does not require a visual inspection for any component using electronic release detection. This needs to be changed back to requiring a visual inspection on equipment that use electronic release detection.

Reasons:

(1) Electronics fail

- They cannot alert you if theres a crack or hole
- Won't alert you if the boots are bad
- Things get old and require maintenance

(2) Frequency

- At least require a monthly MVI

(3) Must physically open sump to check status

- Is sensor still inside of sump, etc?

62-761.700 Repairs, Operation and Maintenance

3(a)(1)--Section 4 of RP 1200 (page 6)

62-761.710 Recordkeeping.

(2) Recordkeeping should be changed back to a term of two years instead of five.

Denise Purvis

Director of Legal Affairs



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Curran, Kimberley

From: Burns, Bill
Sent: Friday, January 31, 2014 2:22 PM
To: 'Dana Spence'
Cc: Curran, Kimberley
Subject: RE: Proposed rule changes

Dana:

Thank you for the comments to the proposed rule revision.

William E. Burns, Jr.
Environmental Administrator
Compliance Assistance
Division of Waste Management
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850/245-8842



Please consider the environment before printing this email.

From: Dana Spence [mailto:dana@1stchoice-inc.com]
Sent: Friday, January 31, 2014 2:17 PM
To: Burns, Bill
Subject: Proposed rule changes

Good afternoon Mr. Burns. After looking over the proposed rule changes, I really just had one serious issue with them. The proposed 62-761.600 1(e) does not require monthly visual inspections on equipment that is electronically monitored. I feel this is a mistake as electronics fail, electronics cannot alert you to a crack or hole in the equipment, and electronics can be manipulated. If a sensor goes out, and you have liquid in the containment, it isn't going to alarm. This could allow fuel into the environment through bad piping boots, cracks or holes, etc. if they are not visually checking the equipment. Any of these sensors can also be pulled up off of the bottom of the equipment they are monitoring, so they do not go into alarm. We have inspectors catch stuff like that all the time out in the field. I think the monthly visual inspection should be left in place, regardless of any other type of monitoring. There is still quite a bit of value in the old standard manual inspection.

Thank you,
Dana F. Spence
Vice President



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Curran, Kimberley

From: Burns, Bill
Sent: Friday, January 31, 2014 11:08 PM
To: jpardue93@gmail.com
Cc: Curran, Kimberley
Subject: FW: Florida Rule Change Comments

Justin:

Thank you for the comments to proposed rule revisions.

From: Justin Pardue <jpardue93@gmail.com>
Sent: Friday, January 31, 2014 4:49 PM
To: Burns, Bill
Subject: Florida Rule Change Comments

62-761.600 Release Detection Requirements

Visual inspections on equipment using electronic release detection should be required monthly for multiple reasons: the sump must be physically opened to check the status, electronics fail and have been shown to be faulty, there won't be a notification if the boots are bad, no alerts for cracks or holes.

62-761.710 Recordkeeping

This should be reverted back to two years instead of five.

Curran, Kimberley

From: KIRKPATRICK, JASON W CTR USAF AMC 6 CES/CEVN
<jason.kirkpatrick.2.ctr@us.af.mil>
Sent: Wednesday, November 20, 2013 2:54 PM
To: Burns, Bill
Cc: Curran, Kimberley
Subject: RE: Comments on Draft Rule Changes 62-761 & 62-762

The INF stuff makes sense now. Thank you. I'll try to get involved on the webinar.

Jason K

//SIGNED//

JASON W. KIRKPATRICK, Contractor, IAP Worldwide Services Inc.
6th Civil Engineer Squadron
7621 Hillsborough Loop Dr.
MacDill AFB, FL 33621
Cell 813-695-3206
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DSN 968-0459

-----Original Message-----

From: Burns, Bill [mailto:Bill.Burns@dep.state.fl.us]
Sent: Wednesday, November 20, 2013 2:18 PM
To: KIRKPATRICK, JASON W CTR USAF AMC 6 CES/CEVN
Cc: Curran, Kimberley
Subject: RE: Comments on Draft Rule Changes 62-761 & 62-762

Mr. Kirkpatrick:

Thank you for your comments here are my responses:

. Comment 1: Please refer to 62-762.431 (3)

(3) Notification of the discovery of any incident shall be made to the County on an INF in writing or electronic format within 72 hours. However, an INF is not required to be submitted if, within 72 hours of discovery, the investigation of the incident confirms that a discharge did or did not occur.

There is similar language in the 62-761 draft.

. Comment 2: We will take that under advisement.

Again that you for comments and hope that will be able to attend our Workshops on 17 Dec here in Tallahassee or via webinar.

Webinar information for the AST Rule:

Workshop attendance via webinar at:

<https://www2.gotomeeting.com/register/416024186>

<<https://www2.gotomeeting.com/register/416024186>>

with audio via call in number (888)670-3525 passcode: 8135053297 then #

Please be advised webinar connections are limited, early registration is recommended.

William E. Burns, Jr.

Environmental Administrator

Compliance Assistance

Division of Waste Management

Department of Environmental Protection

2600 Blair Stone Road

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DEP color logo for PC

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-----Original Message-----

From: KIRKPATRICK, JASON W CTR USAF AMC 6 CES/CEVN
[mailto:jason.kirkpatrick.2.ctr@us.af.mil]
Sent: Wednesday, November 20, 2013 1:30 PM
To: Burns, Bill
Subject: Comments on Draft Rule Changes 62-761 & 62-762

Mr. Burns;

Comment #1: If I am reading the revisions to 62-761.600 (1)(e) correctly, it appears that "visual inspections of a storage tank system that reveal signs of corrosion, cracks,.....is considered a positive response. The positive response shall be....investigated as an incident pursuant to Rule 62-761.430"

If a positive response (i.e. corrosion) is considered an incident, under the new rule are we going to be required to submit an Incident Notification Form when we discover rust on our tanks? I've got a local regulator that is a stickler for rust, and if I have to submit an INF every time rust is discovered, that seems a little extreme.

Comment #2: In 62-761.700 (3)(a) it discusses integrity testing of the secondary containment system and interstitial spaces. The testing seems reasonable, but having to have EVERY tank system with below ground piping, sumps, tank walls, dispensers, etc. tested before 1 Jan 2015, could represent a significant amount of work and cost for large facilities with many storage tank systems (such as an Air Force Base). Wouldn't it make more sense to stagger the implementation of this requirement - tanks installed prior to 1980 tested first (2015), tanks installed prior to 1990 tested next (by 2018), and tanks installed after 2000 tested by (2020)...or something similar. Doing it this way would spread out the financial impact of this requirement.

Jason K

//SIGNED//

JASON W. KIRKPATRICK, Contractor, IAP Worldwide Services Inc.

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7-Eleven, Inc.

January 17, 2014

Mr. William E Burns, Jr
Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: 7-Eleven Comments for Chapter 62-761 DRAFT

Dear William:

On behalf of 7-Eleven, Incorporated I would like to submit the attached comments regarding the Florida Department of Environmental Protection's Chapter 62-761 DRAFT. Presently 7-Eleven owns and operates 582 gasoline facilities in Florida and plans to develop and open more stores this year.

As a side note, I would like to stress per Joe DePinto, CEO and President of 7-Eleven, Incorporated, "It is 7-Eleven's philosophy that compliance with applicable gasoline environmental regulations is an essential element of our corporate philosophy and an important part of being a good neighbor and being a part of the communities we serve."

My primary concern regarding the changes in the DRAFT is the short timeframe provided to complete the secondary testing. The other comments are mostly tweaking in nature.

Thank you for giving me the opportunity and consideration to comment on the proposed Rule. Please contact me if you have any questions.

Respectfully,

A handwritten signature in blue ink that reads 'Cathy Wise'.

Cathy Wise
Region Environmental Compliance Manager
7-Eleven Fuels Services, Inc.
Environmental Compliance Dept #0148
P.O. Box 711
Dallas, TX 75221

Chapter 62-761.200 Definitions

(27) “Interstice” means the space between the primary and secondary wall of a storage tank system component.

7-Eleven Comment: Vague definition and open for various interpretations – primary and secondary “wall” leads me to believe “tank wall” but storage tank system includes dispenser liners, STP sumps and fill bucket secondaries. Does “interstice” include all tank system secondaries or just the tank secondary space?

Chapter 62-761.405(3) Notification

(3) Notification of the discovery of an incident shall be made to the County in writing or electronic format on Form 62-761.900(6), Incident Notification Form(INF), effective date, (effective date of the rule), hereby adopted and incorporated by reference, within 72 hours; however an INF need not be submitted if, within 72 hours of discovery, the investigation of the incident in accordance with Rule 62-761.430, F.A.C., confirms that a discharge did or did not occur. Copies of the INF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

7-Eleven Comment: Add “within 72 hours or before the close of the County’s next business day”.

Reason for the Comment: If a possible release event occurs on a Friday or Monday and it is a holiday, the INF can feasibly be completed on the following business working day.

Chapter 62-761.405(4) Notification

4) Notification of the discovery of a discharge shall be made to the County in writing or electronic format on Form 62-761.900(1), Discharge Report Form (DRF), effective date, (*effective date of the rule*), hereby adopted and incorporated by reference, within 24 hours. Copies of the DRF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400...

7-Eleven Comment: Add “within 24 hours or before the close of the County’s next business day”.

Reason for Comment: Comment would allow for business working hours and has worked well for us in the past.

Chapter 62-761.430 Incidents (1)(a.)1.

Any visual inspection of a storage tank system that reveals signs of corrosion, cracks, structural damage, leakage, or other similar problems;

7-Eleven Comment: Add a quantifier to “corrosion” for example “severe or heavy corrosion”. The word corrosion is wide open for various interpretations. The current regulation states “corrosion holes”.

Chapter 62-761.430 Incidents (1)(a)6.

Any visual inspection that indicates the presence of water and/or regulated substances in the interstice.

7-Eleven Comment: Does interstice include tank system secondaries, i.e. STP sumps, dispenser liners and fill bucket secondaries? If yes, quantify the amount of water.

Chapter 62-761.430 Incidents (2)

If an incident occurs at a facility, actions shall be taken within 24 hours of discovery to investigate the incident to determine if a discharge has occurred.

7-Eleven Comment: Delete (2) or instead of “within 24 hours” for response time insert the word “promptly”.

7-Eleven Reason for Comment: Hurricanes and other inclement weather conditions or fires are common in Florida. 7-Eleven service contractors may not have access/electricity to the affected facility for several days. Also a rash of facilities that have simultaneous alarms due to flash flooding cannot feasibly be addressed within a 24 hour timeframe.

Chapter 62-761.430 Incidents

(3) Notification of the discovery of any incident shall be made to the County in writing or electronic format on an INF within 72 hours. However, an INF is not required to be submitted if, within 72 hours of discovery, the investigation of the incident confirms that a discharge did or did not occur.

7-Eleven Comment: Add, “within 72 hours or before the close of the County’s next business day”.

7-Eleven Reason for Comment: Holidays can occur on Monday and/or Friday. (Thanksgiving is on a Thursday and most businesses are closed on Friday too.)

Chapter 62-761.500(1)(b)7. Storage Tank System Requirements

An interstitial integrity test shall be performed on double-walled spill buckets or double-walled sumps in accordance with PEI/RP1200-12 before the component is placed into service.

7-Eleven’s Comment: Both double-walled and single-walled containment buckets should have the same testing requirements. Remove secondary testing requirement for double-walled spill buckets.

Reason for the Comment: It is onerous and punitive for facility owners who have spent extra funds on equipment to protect their system from a release by installing double walled systems to be singled out with more stringent testing requirements adding even more to the cost of the project and testing. It is only fair for both single and double-walled buckets to have the same testing protocol.

Chapter 62-761.500(1)(h)

Whenever storage tanks and/or integral piping are installed, modified or relocated after the effective date of this rule, Record Drawings (“as-builts”), signed and sealed by a professional engineer licensed in the state of Florida, shall be completed and maintained as a record in accordance with Rule 62-761.710, F.A.C. The as-built drawing shall include all construction and equipment design specifications including exact dimensions, geometry, and locations of the storage tanks and/or integral piping, of the work completed under contract, and any changes made to the original specifications during the construction process.

7-Eleven’s Comment: Integral piping replacements, modifications, and relocations should not require “As BUILTs”.

Reason for the Comment: Drawings drive up cost for piping projects, discourages piping upgrades and does not add extra environmental protection from a release.

Chapter 62-761.600(1)(e)

Visual inspections. Every component of a storage tank system that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of a storage tank system that reveals signs of corrosion, cracks, structural damage, leakage, or other similar problems is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. Repairs shall be made in accordance with Rule 62-761.700, F.A.C. A visual inspection is not required for any system component using an electronic release detection method.

7-Eleven Comment: Add a quantifier to “corrosion” for example “severe or heavy corrosion”. The word corrosion is wide open for interpretation. The current regulation states “corrosion holes”.

Chapter 62-761.600(1)(g)

Electronic release detection devices shall be inspected for proper operation at least once every calendar month, but not exceeding 35 days. A record or summary of the alarm history, sensor status and testing results related to potential releases shall be printed from any electronic release detection device. If the release detection system is not capable of printing records, a manual log shall be maintained of the alarm history, sensor status and testing results.

7-Eleven’s Comment: If the release detection system is not capable of printing records, an electronic copy kept off site should be acceptable providing it can be made available at the facility or another agreed upon location upon five working days of the Department’s request.

Reason for Comment: Because of 7-Eleven’s tank monitor security program, alarm history and testing results cannot be printed on site. 7-Eleven remotely and continuously polls alarms, sensors status and test results related to potential releases from the gas tank monitor. 7-Eleven has contracted Fuel Quest to review the results and dispatch the possible release alarms around the clock. The requirement of a manual log for summary reports, if a tape cannot be printed from the monitor, is outdated and inefficient in today’s tech world.

Chapter 62-761.700(3)(a)1.b.c.d. Repairs, Operation and Maintenance, Integrity Testing Schedule

b. The interstice of double-walled integral piping by January 1, 2015, and every five years thereafter;

c. Below-grade piping sumps by January 1, 2015, and every five years thereafter;

d. Below-grade dispenser sumps by January 1, 2015, and every five years thereafter;

7-Eleven's Comment: I would like the rule to state: "The interstice of double-walled integral piping, below-grade piping sumps and below-grade dispenser sumps shall be performed by (5) years after the effective date of the rule, and every five years thereafter; " Stores already tested within five years from the time the rule passes should not need to be retested until the five year period is up.

Reason for Comment: 7-Eleven will need 5 years to accomplish secondary testing for the following reasons:

- 1) Testing the secondary is very costly and time consuming. To test the secondary piping and dispenser liners, the dispensers will need to be removed at a vast number of the 7-11 facilities. Entry boots will need to be secured for the dispenser liner test. Jumpers will need to be installed to test the line secondary as a continuous piping run. The dispenser liners and the STP sumps cannot be tested under vacuum or pressure and must be filled with water. If a problem exists, the water must be removed to accommodate the repairs and then the sump refilled.
- 2) Most importantly, if there is a secondary failure it takes 7-Eleven approximately 3 months for project planning, permitting, funds appropriation, bidding, equipment procurement, regulatory notifications and then finally the completion of the project, which takes about a week to complete. I recommend the testing be phased in to avoid a run on supply of entry boots and product piping. The new regulation is particularly onerous and punitive for the retailers that proactively replaced their single wall systems 20-25 years ago and now are facing secondary testing for a system that was not designed to be easily tested. I believe even five years does not give large companies like 7-Eleven, Inc. ample time to conduct the testing and make the necessary repairs. If this stringent testing proposal passes as stated, I anticipate numerous store closures for especially the lesser profitable and independently owned facilities.

Chapter 62-761.700(3)(a)1.e.

Double-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter;

f. Single-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 month thereafter; and

7-Eleven's Comment: Both Double-walled and Single-walled containment systems should have the same testing requirements.

Reason for the Comment: It is onerous and punitive for facilities owners who have taken extra measures to protect their equipment from a release by installing double walled systems to be singled out with more stringent testing requirements. If annual testing of the primary buckets is ample protection for the single walled bucket it should also be ample protection for the double walled system. I believe both single and double walled buckets should have the same testing protocol.

62-761.710(1)3(c) Recordkeeping

(a) Repair, operation, and maintenance records;

(b) All release detection results

(d) Records of the types of fuels stored per tank.

7-Eleven's Comment: For all the records where the retention time changed from two to five years, 7-Eleven should be allowed to accumulate them throughout five years after the RULE's effective date.

Reason for Comment: Records not required before the rule passed may not have been retained.

62-761.800(2) Closure of storage tank systems.

(a) The following storage tank systems must be closed within 90 days in accordance with the provisions of this subsection: 3. A storage tank system that requires repair pursuant to Rule 62-761.700, F.A.C., but cannot be repaired to operate in accordance with the requirements of this Chapter.

7-Eleven's Comment: I recommend the rule be changed from 90 days to 365 days.

Reason for the Comment: 90 days is not enough time to determine whether a viable repair can be made to a storage tank system that is out of service per 62-761.800(1)2. An example is a Total Containment, Inc. tank that is taken out of service because there is water in the tank's secondary, the tank's outer wall cannot be repaired and 7-Eleven decides to replace the tank. It takes time for the approval, planning, permitting, bidding and procurement and the construction process to be set in motion. To perform a tank closure by filling the tank with solid inert material and then turn around and replace it in a few months is a waste of valuable funds. I do not believe a tank system that was properly taken out of service poses an environmental danger if abandoned or removed by 365 days.

Hopping Green & Sams

Attorneys and Counselors

January 31, 2014

By Electronic Mail

William E. Burns, Jr.
Environmental Administrator
Compliance Assistance
Division of Waste Management
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: Chapter 62-761, F.A.C. (Underground Storage Tank (UST) Systems);
Chapter 62-762, F.A.C., (Aboveground Storage Tank (AST) Systems)
December 2013 Rule Drafts

Dear Bill:

On behalf of the Florida Electric Power Coordinating Group, Inc. Environmental Committee (FCG) and Florida Power & Light Company (FPL), I am submitting this letter for the purpose of providing written comments in regard to proposed rule amendments to Chapters 62-761 and 62-762, Florida Administrative Code (F.A.C.) that were the subject of an agency rule development workshop on December 17, 2013. The FCG is a not-for-profit association of twenty-eight (28) investor-owned, municipally-owned, and cooperatively-owned electric utilities engaged in the business of providing the majority of electric power to the public in the State of Florida. FPL is the largest electric utility in Florida and one of the largest rate-regulated utilities in the United States. FPL generates power from 16 power plants and delivers it by way of 69,350 miles of power lines to approximately 4.5 million customers in about half the State of Florida. FCG member electric utilities and FPL own and operate storage tank systems and undertake activities which are subject to the provisions of Chapters 62-761 and 62-762, F.A.C.

The FCG's and FPL's joint written comments concerning the agency draft rule amendments are provided below and, where appropriate, reference page numbers in the Florida Department of Environmental Protection's (FDEP or Department) December 2013 rule drafts that were made available through FDEP's website. The FCG and FPL hope that to the extent FDEP agrees to incorporate these comments, such comments are included in the next version of the rule drafts that the agency develops.

General Comments

During the rule development workshop, agency staff expressed that any new regulatory requirements proposed during this rulemaking are to apply only to storage tank systems installed or constructed after the effective date of the proposed rule amendments and that such new requirements were not to apply to existing storage tank systems (except where specifically indicated otherwise). Upon the FCG's and FPL's review of the December 2013 workshop drafts, they believe that this point remains unclear. As a result, the FCG and FPL suggest that FDEP develop rule language in the appropriate section(s) of the rule chapters indicating that each new regulatory requirement, unless otherwise indicated, applies only to storage tank systems installed after the legal effective date of the rule amendments. Indeed, an example of such language has already been included by FDEP on page 11 of the AST rule draft at Rule 62-762.211(3), F.A.C. In addition to general rule language being included in each section as suggested above, more specific rule language on this point should also be inserted where each new substantive requirement appears in the rules.

Along these lines, where the Department is proposing new substantive requirements for storage tank systems, the FCG and FPL would like to better understand what data and other information is available demonstrating that current rule requirements are inadequate. If such information is made available to the regulated community, it may more effectively participate in finding a solution that is mutually beneficial for industry and Florida's environment.

As discussed during the rule development workshop, FCG and FPL believe that the AST draft rules would be much easier to understand if all of the requirements for field-erected ASTs were separated and consolidated into one subpart of the AST rule chapter or in a separate rule chapter altogether. FCG members and FPL own a number of these types of ASTs and these ASTs are much different than shop-fabricated systems and necessitate separate treatment. Implementation of this suggestion will result in greater understanding of the technical requirements for field-erected ASTs and will improve compliance and ultimately environmental protection. Indeed, the Department should give strong consideration to separating the AST rule into specific subparts addressing shop-fabricated ASTs, field-erected ASTs, and mineral acid ASTs.

Before scheduling additional workshops, the FCG and FPL suggest that FDEP create technical working groups with appropriate stakeholders to address specific technical issues in this rulemaking. A smaller working group of Department personnel, County representatives, and industry representatives may be more effective and time efficient in resolving the more technical and complex issues raised in this rulemaking. This format has been used effectively by the Department in other rulemaking matters.

Finally, the FCG and FPL request that the next FDEP rule draft include line numbers to facilitate the regulated community's review of the agency's draft rule amendments and preparation of comments to the agency. Along these lines, the FCG and FPL also ask that in the next rule draft that FDEP highlight in shading or by other means any new technical requirements being proposed for storage tank systems.

Specific Comments – Chapter 62-762, F.A.C.

1. Rule 62-762.201; Pages 2-9. Throughout this section of the rule, FDEP is deleting terms currently defined in the rule chapter which also appear in Florida Statutes. The FCG and FPL believe that these statutory definitions should be retained to further assist the regulated community by eliminating the need to refer to additional sources in determining the meaning of terms used throughout the rule chapter. Maintaining these terms in the "Definition" section of the rule chapter will promote better understanding of the rule and ultimately better compliance with rule provisions.
2. Rule 62-762.201(10); Page 2. The FCG and FPL suggest that the last sentence of the definition for "corrosion professional" be modified to read "Corrosion Professionals shall be accredited or certified by NACE International as either a Corrosion Specialist or a Cathodic Protection Specialist, or be a professional engineer registered in the State of Florida". Including the NACE Cathodic Protection Specialist designation would be appropriate in the definition. The proposed change relates to education and experience specific to cathodic protection (CP) work, as Cathodic Protection Specialists are qualified specific to CP testing, theory, and design.
3. Rule 62-762.201(11); Page 2. Definition of the term "County" should be modified by inserting the word "local government" before the word "program". This provides more clarity in the type of entity defined as a County. The currently drafted definition is too broad and arguably could be interpreted to include non-governmental entities. To the extent FDEP is using non-governmental entities to conduct compliance verifications, a separate definition should be developed for such entities.
4. Rule 62-762.201(12); Page 3. A definition of the term "day tank" is being proposed to include tanks with capacities of less than 551 gallons that are used to provide a reliable supply of fuel to engines. That term is proposed to be included in the definition of "storage tank system". The FCG and FPL are uncertain as to why it is necessary to regulate such tanks and many of these systems are located forward of fuel forwarding pumps in industrial facilities. If there is a need to provide additional environmental protection for such systems, the FCG and FPL would like to know what data or other information supports additional regulation of these systems. Furthermore, the FCG and FPL believe that this definition should not apply to systems serving generators that are used only occasionally for emergency purposes.

Finally, the FCG and FPL suggest that the phrase "system component" be deleted in this definition and other provisions in this rule chapter where appropriate. The definition of "storage tank system" in the rule already includes storage tank system components.

5. Rule 62-762.201(16); Page 3. Inclusion of the term "dispenser" in the existing definition of the term "dispensing system" is problematic as the existing term "dispenser" is limited to systems used to transfer vehicular fuel from a fixed point to a vehicle. The Department is proposing that the term "dispenser" and its definition be deleted. As currently drafted, certain industrial fuel forwarding systems like those at manufacturing facilities and power plants would arguably be defined as "dispensers" subjecting them to unnecessary regulatory requirements. The FCG suggests that these terms and their corresponding definitions should not be consolidated but, instead, retained as separate defined terms.
6. Rule 62-762.201(18); Page 3. The FCG and FPL note that the revised definition of the term "double-walled" is confusing. The FCG and FPL suggest that the second appearance of the phrase "that has an outer wall" be deleted to provide more clarity.
7. Rule 62-762.201(); Page 3. The FCG and FPL would like to understand the agency's rationale for proposing to delete the definition of the term "existing contamination".
8. Rule 62-762.201(22); Page 4. The definition of "high viscosity" should not be modified to include only those specific pollutants that are "heating oil". If the product has a viscosity of 30 centistokes or higher at 40 degrees Centigrade, then that product should qualify as a high viscosity substance as originally defined by the Department. In addition, the FCG and FPL want to understand the agency's rationale for excluding new motor oil and lubricating oil from this definition where such products meet the technical parameters of this definition.
9. Rule 62-762.201(26); Page 4. The FDEP is adding specific technical standards to the definition of "impervious". Would such standards be applied to existing storage tank systems? The FCG and FPL believe that these technical requirements should only be applied prospectively. Consistent with previous comments, the FCG and FPL suggest that appropriate "grandfathering" language be developed to address this and any other rule requirements that are new.
10. Rule 62-762.201(29); Pages 4-5. In the definition of the term "industrial occupancy building", the phrase "constructed after July 13, 1998" should be changed to

reflect the effective date of the rule amendments. FDEP is proposing to add specific design and construction reference standards for such buildings and these new requirements should not be applied retroactively.

11. Rule 62-762.201(31); Page 5. The definition of the term "in-service" is missing a verb and the FCG and FPL suggest that the word "contains" be included after the word "that".
12. Rule 62-762.201(33); Page 5. The FCG and FPL would like to know whether the term "liquid level monitoring systems" includes traditional "stick testing" that is employed for double-walled tanks to check for liquid in the interstitial test tube?
13. Rule 62-762.201(40); Page 6. The FCG and FPL believe that the proposed term "new" in the rule draft may not fully address prospective application of new technical requirements. Consistent with previous comments, the FCG and FPL suggest that more detailed "grandfathering" language be developed in this regard.
14. Rule 62-762.201(50); Page 7. As currently drafted, it appears that pressure tests may be limited to bulk product piping. If that is the agency's intent, the FCG and FPL would like to know why pressure tests are being limited to bulk product piping and not made applicable to any integral piping.
15. Rule 62-762.201(58); Page 8. The FCG and FPL would like to understand why the agency is proposing to delete existing rule language that release prevention barriers specified in API Standard 650 constitute secondary containment for field-erected ASTs. This rule language should be retained.
16. Rule 62-762.201(62); Page 8. The FCG and FPL note that the only reference to "spill containment system" in the rule chapter refers to fill port containment. It may be preferable to use the term "fill containment system" rather than "spill containment system" for greater clarity in the rule.
17. Rule 62-762.201(63); Page 8. Consistent with previous comments, day tanks should not be included within the definition of "storage tank system" and the FCG and FPL do not believe such systems warrant regulation.
18. Rule 62-762.201(); Page 9. The current term "vehicular fuel" and its corresponding definition should be retained as it is still used elsewhere in this rule chapter. Furthermore, the term is used in the term "dispenser" as discussed in a prior comment.

19. Rule 62-762.211; Pages 9-11. The FCG and FPL believe that it would be helpful to include in this rule section a listing of the FDEP orders granting alternate procedure requests from dike field impervious secondary containment requirements for field-erected ASTs. Having such orders listed in the rule would assist County program inspectors in understanding the regulatory status of these AST systems.
20. Rule 62-762.301(1)(a); Page 12. The FCG and FPL do not understand the intent behind the agency's proposed deletion of language in the applicability section that outlines the types of regulated substances or pollutants and dates after which storage tanks that contained or contain such materials were subject to regulation. These provisions should be retained.
21. Rule 62-762.301(1)(b); Page 12. The inclusion of detailed information regarding the source and address for obtaining federal rule language is confusing. A simple reference to 40 CFR Part 302 should suffice. Similar verbiage is included elsewhere in the rule chapter when federal code language is referenced. Consistent with this comment, citation to the federal code provision should be sufficient in those instances as well.
22. Rule 62-762.301(2)(f) & (g); Page 12. As discussed at the rule development workshop, the FCG and FPL believe that the two current exemptions for tanks containing asphalt or asphalt products which do not contain other pollutants and storage tank systems storing pollutants that are solid or gaseous at standard temperatures and pressures should be retained in this section of the rule.
23. Rule 62-762.301(2)(o); Pages 12-13. The FCG and FPL suggest adding the words "and lubricating oil" after the term "dielectric fluid" to further clarify electrical equipment systems exempt from the rule chapter.
24. Rule 62-762.401(1)(b); Page 13. The FCG and FPL suggest that the submittal of the initial storage tank registration form continue to be required no later than 30 days after regulated substances are first placed in the storage tank. The FCG and FPL are concerned that accurate registration information may not be available prior to adding regulated substances into the tank. Additionally, the FCG and FPL could not identify statutory language in Chapter 376, F.S. that requires this agency proposed change.
25. Rule 62-762.401(3)(c); Page 14. As discussed during the rule workshop, the FCG and FPL believe that a submittal of an updated registration form should only be required where there has been a permanent change from a pollutant to a nonpollutant.

26. Rule 62-762.401(4)(d); Page 14. The FCG and FPL suggest that this fee provision be clarified to be made applicable to bulk product facilities only as currently provided in the existing rule.
27. Rule 62-762.411; Pages 15-16. As a general comment, the FCG and FPL believe that the various notification requirements may be more easily understood if the requirements were organized in a table format.
28. Rule 62-762.411(1)(b); Page 15. As discussed during the rule development workshop, FDEP is requiring notification be made to the County for installation of a storage tank system "or system component". Consistent with previous comment, the FCG and FPL believe that FDEP should delete the term "system component" as the term "system components" is already included in the definition of "storage tank system".
29. Rule 62-762.411(3); Page 15. The FCG and FPL believe that the term "internal inspections" needs to be further clarified as it is overly broad and may include activities that should not require notice to the County.
30. Rule 62-762.411(4) & (5); Page 16. In both of these subsections, the FCG and FPL suggest that for incident and discharge release reporting that the time periods respectively referenced should be modified to allow for submittal of notification before the close of the County's next business day should such time periods end on a weekend or holiday.
31. Rule 62-762.421(3); Page 16. Consistent with a prior comment, the FCG and FPL question why it is necessary to include the details of the government printing office and relevant addresses for the federal code reference. Also, as currently drafted, the rule language is somewhat confusing and the FCG and FPL suggest that the phrase "with the following exceptions:" be replaced with the phrase "except that:". Finally, the FCG and FPL would like to confirm long standing interpretation and practice by the agency regarding AST financial responsibility. Specifically, like the federal UST financial responsibility rule requirements, when determining the appropriate amount of financial responsibility for a facility, the identified financial responsibility levels are for the cumulative storage capacities for storage tanks at a facility. The FCG and FPL would like to discuss this point further with Department representatives.
32. Rule 62-762.431; Pages 16-17. Many FCG members and FPL have had difficulty in having incidents which do not result in a discharge to the environment resolved in a complete and timely fashion. For this reason, in retrospect, the FCG and FPL believe that reporting need only occur when there has been a discharge or release into the

environment. Moreover, in Rule 62-762.431(2), F.A.C., incident notification requirements have been modified to require notification for "signs of corrosion". As discussed at some length at the rule workshop, this draft rule language defines that the presence of any corrosion is a positive response of a release detection device and must be reported. While corrosion is undesirable, it is by no means an indication that a release has occurred. The FCG and FPL suggest that this language be modified to reflect that only significant corrosion that could lead to structural damage, leakage or other similar problems in the immediate future requires incident notification. Application of existing rule language addressing perforations, corrosion holes, etc. does not appear to be causing regulatory confusion or issues. The existing rule language should be retained.

Also in this rule section, the FCG and FPL believe that the requirement to provide incident notification for a visual inspection that indicates the presence of water and/or pollutants in the interstice is much too broad. It is common to have minimal amounts of water in interstitial space of double-walled tanks due to simple condensation. The FCG and FPL believe that a minimum quantity or volume of water should be added to the rule language that would trigger notification.

The FCG and FPL also question why FDEP has eliminated existing rule language that only those losses of pollutants over 500 gallons inside impervious secondary containment requires incident notification. Similarly, loss of a pollutant from a storage tank system exceeding 25 gallons on impervious surfaces other than secondary containment would now require incident notification. The current rule provides for a 100 gallon threshold in this regard. The FCG and FPL propose that both of the current provisions be retained in the rule chapter. Finally, where appropriate in this rule section, the phrase "or within the close of the County's next business day" should be inserted after relevant time periods should those time periods fall upon a weekend or holiday.

33. Rule 62-762.441; Page 18. The FCG and FPL request that the 25 gallon de minimis threshold for petroleum be inserted in paragraph (1)(d). Also, subsection (3) should be modified to allow for 7 to 10 days for submittal of laboratory analytical results confirming a discharge. Finally, the FCG and FPL believe that the discharge reporting time frame should be increased from 24 to 48 hours to allow time for proper documentation to reach appropriate personnel in charge of such notifications.

34. Rule 62-762.501(1)(b)2. & 3a.; Page 19. The FCG and FPL recommend adding statements in these identified rule sections to remind the regulated community to refer to those coatings and liners that appear on FDEP's registration/equipment approval list.

35. Rule 62-762.501(1)(b)7.; Page 19. The FCG and FPL suggest that the word "closed" be inserted before the term "double-bottomed". FCG members and FPL have open, double-bottomed storage tank systems which cannot physically be subjected to interstitial integrity testing.
36. Rule 62-762.501(1)(b)9.; Page 19. As discussed during the rule workshop, FDEP's draft rule language could be interpreted to require double-walled spill buckets. This rule language should be modified to reflect that interstitial integrity tests are only required to be performed in those cases where double-walled spill buckets are used by an owner/operator.
37. Rule 62-762.501(1)(d); Page 20. FCG and FPL request further clarification from FDEP on how an owner/operator documents compatibility for existing systems.
38. Rule 62-762.501(1)(h); Page 20. This proposed section provides that whenever storage tank systems are installed, modified, or relocated, "as built" drawings shall be completed and signed and sealed by a registered Florida professional engineer and maintained at the facility. The FCG and FPL are concerned that under this draft language even minor or insignificant changes would require "as built" drawings. As well, it may be difficult to develop such "as built" drawings for shop-fabricated tanks. This suggested rule change should be deleted.
39. Rule 62-762.501(2)(b)2.; Page 20. The FCG and FPL would like to know whether it is necessary for tanks constructed in accordance with UL 142 or API 650 to also get an alternative approval request approved by the agency? As currently drafted, the language is confusing.
40. Rule 62-762.501(2)(d)2.; Page 21. The FCG and FPL maintain that secondary containment requirements for storage tanks containing motor oil or lubricating oil should only apply prospectively and not to existing systems. Retroactive application of secondary containment and other requirements for these types of systems, including integral piping, appear in other sections of the rule draft and those sections should be modified accordingly to apply to only those systems containing motor oil and lubricating oil installed after the effective date of these rule amendments.
41. Rule 62-762.501(2)(f); Page 22. Consistent with a prior comment, the FCG and FPL believe that the term "spill containment system" should be modified to "fill containment system" where the former term is used in this section of the rule.

42. Rule 62.762.501(3)(b)3.; Pages 22-23. The FCG and FPL request confirmation that cathodic protection is not required for doubled-bottom field-erected ASTs that have a liner and concrete in the interstitial space. This is consistent with agency interpretation of current rule requirements and the FCG and FPL want to confirm that the agency's draft rule amendments do not change this interpretation.

43. Rule 62-762.501(3)(c)4., 6., and 8.; Pages 23-24. Instead of installing secondary containment in the entire dike field area in accordance with Rule 62-761.501(3)(c)4., F.A.C., the FDEP is proposing that an alternative dike field secondary containment system approved in accordance with Rule 62-762.851(2), F.A.C., may be used. Alternative dike field secondary containment systems would not be allowed in public wellfield protection areas. The alternative dike field secondary containment system must provide:

- Continuous tank shell monitoring with approved probes, cables, or electronic sensors;
- Immediate electronic notification to the owner or operator of overfills and leaks from the tank shell;
- Stormwater management;
- A high and a high-high level overfill alarm system with an annual test of operability;
- An impervious overfill retention system that will contain a volume of product that would be transferred at maximum flow rate for a period of five minutes by the pump used for filling the tank;
- A automatic flow shut-off system for the tank; and
- Secondary containment must be installed around or beneath pumps, valves, and piping connections within the dike field or secondary containment area.

Consistent with previous FCG and FPL comment, the FCG and FPL believe that this alternative may be appropriate for new field-erected aboveground storage tank systems. The FCG and FPL maintain that these or any other secondary containment requirements should not be imposed at those facilities where alternate procedure requests for dike field secondary containment for field-erected aboveground storage tanks have already been granted by FDEP. To date, these procedures have proven to be effective and protective of the environment.

44. Rule 62-762.501(3)(c)9.; Page 24. The FCG and FPL believe that the draft requirement that the outer wall of the storage tank system be designed to prevent any discharges from overfills and releases from the primary tank and must contain a volume of product that would be transferred at maximum flow rate for a period of 30 minutes should be eliminated. The FCG and FPL would like to understand the

regulatory basis for this suggested requirement. It would be difficult to retrofit existing field-erected double-walled storage tank systems to meet this requirement. These tank systems are typically constructed at sites that have space limitations.

45. Rule 62-762.501(4)(d); Page 25. Draft rule language regarding the need to add certain types of valves for storage tank systems and integral piping that produce a gravity head on the dispenser or on small diameter piping needs to be revised to recognize the use of such valves in industrial and other applications. Significant agency consideration should be given to whether such valves should be used in situations where such tank systems provide fuel to emergency generators for hospitals, power plants, and other important infrastructure, and related services. FCG members and FPL have had experiences where emergency generators have not functioned due to an open valve. Similar issues might arise with installation of these types of valves. Finally, FCG member and FPL systems are located in areas where the likelihood of any pipe breaks from impacts from vehicles or other industrial equipment is extremely low.

46. Rule 62-762.601(1)(b); Page 26. The FCG and FPL suggest that the phrase "within 90 days of the effective date of this rule" be inserted after the phrase "or close the system". This is consistent with the timeframes referenced in Rule 62-762.801(2).

47. Rule 62-762.601(1)(e); Page 27. Consistent with its previous comment, the FCG and FPL believe that the presence of corrosion, in and of itself, should not constitute a positive response of a release detection device requiring incident notification. This language should be modified to reflect that only significant corrosion that could lead to leakage or release constitutes a positive response of a release detection device. Also, consistent with previous comment, the phrase "Every component of" should be deleted as storage tank components are already included in the definition of "storage tank system".

48. Rule 62-762.601(1)(j); Page 27. As provided in a prior comment, application of secondary containment, release detection, and other requirements for storage tank systems containing motor oil or lubricating oil, should only apply prospectively for systems installed after the effective date of these rule amendments.

49. Rule 62-762.601(2)(a)7.; Page 28. Consistent with a previous comment, the FCG and FPL believe that this rule language should be modified to reflect that a minimum volume of water (over an inch) should constitute a positive response. Small amounts of condensation are usually found in interstitial spaces particularly during warmer months and should not require incident notification.

50. Rule 62-762.701(1)(a)3.; Page 31. Consistent with prior comments, the FCG and FPL suggest that a minimum of one inch of water in the interstice of a storage tank or integral piping be the trigger for the need to further evaluate whether a storage tank system or component needs to be repaired. It is not uncommon in Florida for condensation to result in the presence of some water in the interstice of a storage tank or integral piping.
51. Rule 62-762.701(3)(a); Page 32. The FCG and FPL echo comments made by regulated interests at the rule workshop regarding how the proposed required integrity testing and schedule may not always be technically or physically possible or practicable. An example would be integrity testing for an open, double-bottom AST system. FDEP should further evaluate a procedure for AST owners/operators to demonstrate such impossibility or impracticability to conduct the proposed integrity testing.
52. Rule 62-762.701(2)(d)1; Page 32. The FCG and FPL suggest that the 30 day time period within which to repair a cathodic protection system is unrealistic. A time period of up to 6 months but not less than 3 months after discovery should be sufficient to make needed repairs.
53. Rule 62-762.701(3)(b)1; Page 33. As provided in other comments, the FCG and FPL believe that FDEP's suggested language regarding water in excess of one inch in depth be carried over into other sections of the rule which require regulatory action or investigation upon discovery of "water" in interstitial spaces of storage tanks and integral piping.
54. Rule 62-762.711(1); Page 34. The FCG and FPL suggest that the phrase "receipt of" be inserted before the phrase "the Department's request". This provides further clarity and underscores agency intent.
55. Rule 62-762.711(4); Page 34. As suggested during the rule development workshop, the FCG and FPL do not believe it is necessary to retain all historical financial responsibility records until storage tank system closure. Financial responsibility is required to be updated on an annual basis and the FCG and FPL believe that only the most recent 3 years of financial assurance information should be required to be kept at the facility.
56. Rule 62-762.801(1)(a)3.; Page 35. The FCG and FPL believe that it is unnecessary for interstice monitoring or liquid level monitoring to occur while a tank is out of service. Out of service storage tanks are required to remove all product prior to being

placed out of service. Empty storage tank systems pose little threat to the environment and therefore should not be required to conduct any monitoring.

57. Rule 62-762.801(1)(a)4.; Page 35. The FCG and FPL suggest that the phrase "inspected in accordance with one of the following prior to being returned to service;" be inserted at the end of the lead-in paragraph before the specific listing of evaluation and testing methods.

58. Rule 62-762.801(2)(a)2.; Page 36. As discussed during the rule workshop, the draft language requiring that a storage tank system that fails to meet the requirements of Rule 62-762.501, F.A.C. must be closed is overly broad and could be misinterpreted by County program inspectors.

59. Rule 62-762.801(3); Pages 36-37. The FCG and FPL are opposed to FDEP's proposed elimination of certain exceptions that have existed historically from having to conduct closure evaluations and submit closure reports. As stated by FDEP staff at the workshop, it is our understanding that these issues will be more fully discussed in a separate rule development workshop to be conducted concerning FDEP's proposed closure evaluation and report requirements.

60. Rule 62-762.851(1)(c); Page 38. The FCG and FPL believe that including timelines for Department response to an alternate procedure request should be retained in the rule and not deleted as proposed. This timeframe for FDEP response helps project managers with planning and scheduling.

61. Rule 62-762.891(5)(a)(3); Page 41. Consistent with a previous comment, the FCG and FPL believe that notification of the discovery of discharge should be made within 48 hours. As well, the phrase "or before the close of the next business day" should be inserted after the reporting time period to account for weekends and holidays.

62. Rule 62-762.891(6)(a)1.; Page 42. The phrase "mineral acid tanks" should be inserted after the word "existing" as it appears to be missing in the Department's draft rule language.

63. Rule 62-762.891(6)(a)2.; Page 42. The FCG and FPL suggest that the phrase "be double-walled or" be inserted after the word "shall" as double-walled mineral acid tanks are becoming much more common.

64. Rule 62-762.891(6)(b)2. and (c)2. The FCG and FPL recommend that it be clarified that if a new mineral acid tank is added to the containment area only then will secondary containment and a containment and integrity plan need to be recertified.

Specific Comments – Chapter 62-761, F.A.C.

To the extent the FCG comments and suggestions to Chapter 62-762, F.A.C., agency draft rule amendments are applicable to agency draft rule amendments to Chapter 62-761, F.A.C., the FCG would reiterate those comments and suggestions and request that they be incorporated into the agency's next draft of proposed rule changes to Chapter 62-761, F.A.C.

1. Rule 62-761.600(1)(b) & (i); Page 18-19. As the Department may be aware, EPA is considering eliminating the release detection deferment for emergency generator tanks. Once EPA's rules are finalized, the FCG and FPL request that existing systems for emergency power generators be provided one year from the legal effective date of EPA rule amendments to provide appropriate release detection methods.

The FCG and FPL very much appreciate the consideration that FDEP gives its comments and comments of the regulated community. After you have reviewed these comments, should you have any questions, please do not hesitate to contact me at (850) 425-2254.

Sincerely,

Hopping Green & Sams

By:



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and

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January 31, 2014
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January 31, 2014

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RE: Chapters 62-761, F.A.C., 62-762, F.A.C. November 18, 2013 Proposed Rule Amendments

Dear Mr. Burns,

The Florida Petroleum Council (FPC), a division of the American Petroleum Institute which represents over 580 members in the oil and natural gas industry and many of the companies operating Florida petroleum terminals using storage tanks, appreciates the opportunity to comment on the Florida Department of Environmental Protection ("Department") proposed amendments to rule 62-762, Florida Administrative Code, as published in the November 18, 2013 Florida Administrative Register and discussed in the December 17, 2013 workshop. The FPC supports the stated goals of the Department to restructure 62-762, F.A.C., to update standards and clarify issues that have raised questions in the past.

During the December 17 workshop, the Department advised a willingness to employ one or more additional workshops to work through the complexities introduced through the restructuring; the FPC strongly recommends using several additional workshops to address individual sections of the draft rule. The FPC has presented a general overview of the proposed rule, followed by specific comments and recommendations, and, finally, concluding remarks.

General Overview

The FPC strongly recommends that the newly restructured rule be based on the current version of 62-762, F.A.C. rather than attempting to incorporate proposed drafts from workshops dating back to 2009 and prior. The previous 62-762 drafts were controversial when previously considered, and many of those controversial issues have been incorporated into this draft. For example, 62-762.501(3)(c)4., F.A.C., requiring secondary containment for field-erected AST's within 10 years will impose extraordinary costs without benefits; in fact, the unintended consequences, such as storm water disposal issues, may lead to antagonistic environmental impacts.



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A historical review of leaks, spills, and overfills in Florida indicates a dramatic downward trend since the last adoption of the rule in 2004 – an indication that the current rule is effective. The success is directly tied to our companies' investments in "prevention" which the current rule emphasizes. Using best management practices, industry employees have identified actual and potential sources of petroleum product releases and, through employee training, revised standard operating procedures, and introduction of engineering controls, each company has been able to design solutions appropriate for each of the unique challenges represented in each of our terminals. The record clearly indicates the current rule has been successful and should be used as the foundation for this draft.

Successful management practices and technology implementation are subsequently communicated and improved upon at various industry conferences, literature, and professional associations among other forums. The essence of these management practices is ultimately compiled into industry standards and guidance documents, such as API standards, following a rigorous consensus process that includes all stakeholders. We recommend heavy reliance on adopting these standards and guidelines as a foundation for the rulemaking rather than requiring expensive, prescriptive engineering controls and additional administrative reporting that will not provide enhanced environmental safety. Again, the current rule and the investment industry has placed on "prevention" have an excellent record.

In addition, the FPC recommends restructuring the rule into three parts (field erected tanks, shop fabricated tanks, and mineral acid tanks) which would further clarify the intent and implementation of the rule. Each of the tanks is distinct and, therefore, should be addressed individually. Separating the rule into three sections will remove some ambiguity that is currently in the rule.

The following specific comments are not comprehensive since some of the new language combined with the restructuring raises questions about the Department's intent. We raise the comments and recommendations more as an indication that additional work must be done.

Specific Comments and Recommendations

1. 62-762, F.A.C., actually covers three different types of AST's: field erected, shop fabricated, and mineral acid tanks. The combination of the three tanks in one rule makes it difficult to ascertain what stipulation applies to which type of tank. **Therefore, the FPC recommends creating a three part rule with each of the parts addressing one of the tank types.** In that manner, specific definitions, standards, and operational requirements can be narrowed to the distinct type of tank.
2. 62-762.201 Definitions:

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- a. (3) "Biofuel" (page 2). The FPC recommends expanding examples provided in the biofuel definition to include animal fats. There are viable processes for converting animal fats, including renewable resources such as chicken and beef, into biodiesel products.
 - b. (8) "Closure report" (page 2). The FPC recommends eliminate references to repairs performed in a closure report to keep closure and repairs as separate actions.
 - c. (12) "Day tank" (page 3). The FPC is not aware of the need to extend the AST storage tank systems to include day tanks. The FPC would like to learn more about FDEP information leading to inclusion of these tanks.
 - d. (22) "High Viscosity" (page 4). The FPC recommends inclusion of asphalt in the definition to further clarify exemptions that the FPC recommends in later sections of the rule. The FPC does not understand the need to exempt new motor oil and lubricating oil from this definition.
 - e. (26) "Impervious" (page 4). It is unclear whether this definition of impervious will apply retroactively particularly as it pertains to concrete and coating systems.
 - f. (29) "Industrial occupancy building" (page 4.) The FPC recommends that current industrial occupancy buildings be grandfathered to current regulations and buildings built prior to July 1, 1998 be completely exempted.
 - g. (31) "In-service" (page 5). The FPC recommends the definition should retain sufficient latitude to allow temporary out-of-service status for routine maintenance, product turnover, etc. without having to report the status to the FDEP within this definition. Alternately, the creation of a "temporary out-of-service" definition with allowable routine activities and a definite time frame with subsequent exemption from reporting would serve the same purpose.
 - h. (32) "Integral piping" (page 5). The amendments have UST system component references in the definition.
 - i. (40) "New" – The FPC is concerned that this definition will introduce more regulations, perhaps unintended, particularly with the phrase "systems components" included. The FPC recommends reviewing the applicable sections to determine whether another approach or a narrower definition is advantageous.
 - j. (58) Secondary containment (page 8). The API 650 release prevention barrier has been eliminated from the definition for secondary containment. The FPC would like to learn the Department reasoning for this strikethrough and if it applies retroactively.
3. 62-762.211 Reference Requirements
- a. The FPC recommends including references to alternative procedures addressing Department accepted alternatives to dike field impervious secondary containment in the reference requirements. The alternative procedures have successfully served in the same capacity as standards; inclusion in this section will clarify the status.

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- b. (j)1. And (j)3 (page 11). It appears these sections have references to requirements for UST and may not be applicable in this rule.
- 4. 62-762.301 Applicability
 - a. (1)(a) General Requirements (page 12) – The FPC is uncertain what the implications of removing the various listed tanks and their specified dates will be; in particular, is the Department expanding AST's that will be inspected and what AST's will that include? The FPC would like to learn the Department's intent.
 - b. (2)(f) and (g) – The FPC recommends retaining the asphalt exemption in the applicability section. The FPC does not feel asphalt represents the same environmental risks as other "pollutants"; note that asphalt is eventually "spilled" from trucks to make asphalt roads.
- 5. 62-762.401 Registration
 - a. (1)(a) (page 13). The term system component could be interpreted rather broadly without a definition. The FPC recommends either a very specific definition or elimination of the term throughout this rule. The FPC recommends the latter.
 - b. (1)(b) (page 13). The FPC is unclear about the need to change registration from 30 days to 10 days. The FPC is interested in learning more about the need for this change.
- 6. 62-762.411 Notification
 - a. (1)(b) See comment under 5a above regarding system components.
 - b. (2) The FPC recommends a notification exemption for when a temporary out-of-service status (see definitions) is met or when minor repairs that do not affect the integrity of the tank systems are undertaken.
 - c. (3) The FPC feels the term "internal inspections" is subject to broad interpretation. The FPC recommends either a very specific definition or further specifications in this section. For example, the FPC recommends that notification is not required for API 653 and API 570 inspections where the tank or piping remains in service or will not be empty.
 - d. (4) and (5) (page 16) – The FPC recommends inclusion of provisions for holiday and weekend reporting when County offices are typically closed.
 - e. (4) and (5) (page 16) - Ultimately, the FPC recommends that notifications should be restricted to actual discharges or releases to the environment.
- 7. 62-762.431 Incidents
 - a. The FPC asserts that many of the broad provisions in this section for an incident can lead to inconsistent inspections and unnecessary reporting. For example, inclusion of "surface corrosion" as an incident raises the question of what is normal, acceptable corrosion and what actually poses a threat. There are no guidelines in this section. Numerous other examples can be cited throughout the section – the FPC has highlighted a few below. The use of the word

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“may” in the incident definition further exacerbates the potential for broad interpretation. As noted in 6f above, the FPC recommends notifications be restricted to discharges or releases to the environment. The FPC recognizes the Department has certain goals it wishes to achieve through these two sections. Therefore, the FPC is willing to participate in future discussions to work through these technical issues with other stakeholders. This will prove to be a more efficient process.

- b. (1)(a)1. (page 17) – The FPC strongly recommends more clarification of when surface corrosion will be cited as an incident. Surface corrosion, which is often common and acceptable, usually does not pose a threat for discharges or releases. Clarification should be offered for unacceptable corrosion and what component surfaces are inclusive in the rule.
 - c. (1)(a)3. and 6.(page 17) – The FPC recommends inclusion of de minimis levels of condensate to accommodate Florida’s normally humid environment.
 - d. (1)(a)5. (page 17) – The FPC would like to discuss further the 10% pressure threshold to ascertain if environmental changes may cause exceedance of the threshold without affecting the reliability of the tank system.
 - e. (1)(a)7., 8., 9., and 10. (page 17) – These subsections may have references to UST standards that can be removed.
 - f. (1)(e) (page 17) – The FPC would like to discuss with the FDEP release quantities, dike fields, and impervious surfaces. Previous trigger levels were 500 gallons – is there cause for the reduction to 25 gallons?
8. 762.441 Discharges
- a. (1)(d) (page 18). The FPC recommends a trigger level, for example 25 gallons, for discharge to a pervious surface.
 - b. The FPC recommends additional discussion on reporting time frames.
9. 62-762.501 Storage Tank Systems Requirements
- a. The FPC recommends a section should be included that recognizes the existence and continued acceptance of model alternative procedures. The model AP’s have been instrumental in economically meeting environmental concerns and should not be abandoned or limited. The FPC would like to discuss this issue further.
 - b. The FPC believes there may be numerous references to UST standards and equipment throughout this section that are not applicable to AST. The FPC will work with the FDEP to remove the references.
 - c. (1)(h) (page 20). The record drawings provision, derived from the UST rule, appears to be unnecessary since AST’s are essentially aboveground operations. Further, some companies

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store this type of document at corporate headquarters. The FPC would like to further discuss the intent of this provision.

- d. (2)(b)2. (page 20) – The FPC is uncertain whether API 650 tanks are qualified for an alternative approval request – is that the case?
 - e. (2)(d) (page 21) – The FPC recommends clarification is needed to exempt pipes extending over surface waters that fall under U.S. Coast Guard regulations.
 - f. (2)(d)2. (page 21) – The FPC strongly recommends that a grandfather clause be installed for existing systems.
 - g. (3)(c)4., 6., and 8. (page 23) – The FPC strongly recommends recognition of existing alternative procedure requests for dike field secondary containment for the field erected AST's that have been granted. As noted in early comments, model alternative procedures have been cost-effective strategies for addressing environmental concerns at many of our bulk product terminals – particularly the coastal bulk terminals.
 - h. (3)(c)9. (page 24) – The FPC would like to discuss this proposal further to evaluate pertinent data related to overfills and releases necessitating this proposal and to see if alternative, cost-effective solutions can be recommended.
10. 62-762.601 Release Detection Requirements
- a. (1)(e) (page 27) – As stated in earlier sections, the FPC believes more clarification is necessary to ensure surface corrosion that is common and acceptable is not cited as an incident.
 - b. (1)(j) (page 27) – The FPC recommends a grandfather clause for existing AST systems unless data is available indicating current systems have not been satisfactory.
 - c. (2)(a)4. and 7. (page 28) – As noted in previous sections, the FPC recommends language should be added to exempt de minimis amounts of condensate to account for Florida's humid environment.
 - d. (2)(a)8. (page 28) – The FPC would like to discuss the intent of this provision to better ascertain its necessity.
11. 62-762.701 Repairs, Operation and Maintenance
- a. (1)(a)3. (page 31) – The FPC recommends language should be added to exempt de minimis amounts of condensate in the interstice to account for Florida's humid environment.
 - b. (3)(a)1., 2., 3. (Page 32) – The FPC is not certain the intent or the reasoning for the integrity testing chosen as it may not be applicable in all situations. The FPC recommends more discussion.
 - c. (2)(d)1. (page 32) – The FPC is concerned the time to complete repairs is too short. The FPC recommends additional discussions.

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- d. (3)(b)1. (page 33) – The FPC recommends language should be added to exempt de minimis amounts of condensate in the interstice to account for Florida’s humid environment.
- 12. 62-762.711 Recordkeeping
 - a. (1) (page 34) – The FPC is uncertain whether the clock starts when the Department makes the request or upon receipt of the request.
 - b. (4) (page 34) – The FPC recommends records stored for 3 years is standard practice for these issues – is there an advantage for five years?
- 13. 62-762.801 Out-of-Service and Closure Requirements
 - a. (1)(a)3. (page 35) – The FPC recommends that interstice monitoring or liquid level monitoring is unnecessary since, by definition, out-of-service tanks have had product removed and pose little threat to the environment.
 - b. (1)(a)4. (page 35) – The current wording of this section implies all tests must be completed despite the applicability of the test; for example, integral piping tests would not be appropriate testing tanks. The FPC recommends including language for testing that is “appropriate” for the tank/pipe.
 - c. (2)(a)2. (page 36) – The FPC feels the phrasing is overly broad and open to misinterpretation by individual inspectors.
 - d. (3) (page 36) – The FPC recommends including the exceptions from having to conduct closure evaluations and submit closure reports that the Department has proposed striking. The FPC feels more discussions are necessary to reach an appropriate balance.
- 14. 62-762.851 Alternative Procedures
 - a. (1)(c) (Page 38) – The FPC recommends retention of response timelines for Department action to alternative procedure requests. The timelines add predictability and costs associated with project planning.

Concluding Remarks

The FPC recognizes the Department has invested a lot of work in this rule. However, the Department has introduced additional complexity to the rule by amending the substance while restructuring the sections – more questions have been raised than resolved. As we move forward on evaluation of this rule, the FPC recommends the following:

- 1. Give strong consideration to breaking the rule into three parts that address each distinct type of AST: field erected tanks, shop fabricated tanks, and mineral acid tanks.
- 2. Give strong consideration to initially basing the proposed amended rule on the current rule. If the Department has specific issues that the current rule does not adequately address, provide data and/or



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information so that industry can participate in finding a solution that is beneficial for Floridians and workable for our companies.

3. Before scheduling additional workshops, assemble technical working groups with appropriate stakeholders to address specific issues within the rule. A small working group of Department personnel, county representatives and industry representatives can resolve the more technical and complex issues faster than attending broad topic workshops and submitting comments afterwards. This format has been used effectively by the Department on other rule development processes; it has proven efficient and successful.

Again, I appreciate the opportunity to comment and look forward to continued participation in the rule development process. Please note, the FPC requests these comments and recommendations also be applied to 62-761, F.A.C., the UST rule, where the comments and recommendations are applicable.

Regards,

A handwritten signature in black ink, appearing to read "ERH", written over a light grey circular stamp.

Eric R. Hamilton
Associate Director
Florida Petroleum Council



February 6, 2014
DELIVERY BY ELECTRONIC MAIL

Mr. William. Burns, Jr.
Bill.Burns@dep.state.fl.us
Bureau Chief
Bureau of Petroleum Storage Systems
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Re: Chapter 62-761, F.A.C.
December 17, 2013 Rule Development Workshop

Dear Mr. Burns:

We are pleased to represent the Florida Petroleum Marketers and Convenience Store Association ("FPMA"), whose marketer members own and operate several thousand petroleum facilities throughout the state. The following comments are intended to supplement those that we provided at the Rule Development Workshop.

62-761.200 Definitions.

(25) "integral piping" – vapor recovery lines are excluded from the definition of "integral piping." Does the Department mean to say that a release of petroleum via the vapor recovery line is not a regulated discharge? If the discharge is regulated, the Department needs to make sure that excluding vapor recovery lines from regulation does not have the unintended consequence of affecting the availability of financial assurance for corrective action if the vapor line contributes to a release.

(46) "Residential storage tank system" – the term "residential" in Chapter 376 implies a residential land use, not the use of a particular building at property with a residential use. Accordingly, we believe the language "building that is used exclusively as a dwelling unit" creates an overly restrictive exemption that will result in many new

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(heretofore unregulated) regulated storage systems at what the Legislature contemplated to be “residences.”

(53) “Valid Registration” – The person who distributes product to a facility and is subject to the delivery prohibition cannot determine whether “all applicable registration requirements...have been met.” The person who delivers can only determine whether the facility has a placard in effect. No placard means no delivery. Placard means delivery.

62-761.300 Applicability.

(2) Exemptions.

(j) Agricultural tanks. Limiting the definition to “agricultural purposes” creates ambiguity. If the land use of the property is agricultural, that ought to be sufficient. Perhaps providing for no re-sale accomplishes the Department’s objective.

62-761.420 Financial Responsibility.

(2) The financial responsibility requirement applies to the owner or operator of the storage tank, not the facility. 42 USC 6991(3) and (4).

We appreciate the fact that the Department recognizes the provisions of 40 CFR 280.113, which requires that financial responsibility remain in place until a storage tank is properly closed or corrective action is complete. However, the Department should address the lack of availability of insurance for out of service systems, particularly since properly out of service systems present minimal risk.

FPMA will be proposing language under separate cover to address recent court decisions concerning non-Florida venue provisions in storage tank insurance policies. FPMA believes that Florida is the appropriate venue and that Florida law must be applied in actions regarding coverage under these policies. DEP cannot rely on the courts of other states to ensure that there are adequate financial resources available to protect the state’s soils and groundwater and to compensate third parties for damages. While the Department may not have authority to review and approve policy provisions, the Department does have the authority (which it already exercises in the rule) to determine the scope and substance of coverage which an owner or operator of a storage tank system must provide.

As an aside, the Department should seek authority from the Legislature to address insurance policy provisions that do not comply with state and federal financial responsibility requirements.

62-761.430 Incidents.

(1)(d) – There appears to be language missing here. We agree that odor in a confined space may be an “incident.” However, odor generally has never been a valid indication of an incident.

62-761.440 Discharges.

(1)(c) – Regulated substance visually observed may still be di minimis, and not a “discharge.” There needs to be a di minimis exclusion here.

(1)(d) – Same comment with respect to di minimis discharges.

62-761.500 Storage Tank System Requirements.

(b)7. – Please clarify that double-walled spill buckets are not a rule requirement.

62-761.600 Release Detection Requirements.

The requirement to maintain all release detection records for five years is unduly burdensome. Once a site is inspected and no problem is identified, the records are of limited value. There needs to be some additional consideration here of what appropriate record retention requirements should be. *See also* 62-761.710 (2).

62-761.700 Repairs, Operation and Maintenance.

A number of issues raised in the workshop seem to be suited for more specialized, concentrated attention. The requirements for breach of integrity testing may be one of those issues.

62-761.800 Out-of-Service and Closure Requirements.

(1)(a)3. – Assuming that the interstice may be readily monitored if a system is out of service, the presence of water in the interstice may be indicative of an issue with the

Mr. William. Burns, Jr.
February 6, 2014
Page 4

tank that could be addressed, but may not be evidence of a “discharge” since the tank is presumably empty. There may need to be some more careful consideration of the incident/discharge reporting process in this regard.

(1)(a)1.a. and b. – The Department ought to make this requirement consistent with the federal rule. Storage tanks that are corrosion-resistant under the federal rule do not have a time limit on out-of-service status.

(3) Closure Report - FPMA opposes the elimination of the exemption for Closure Reports as currently applicable to sites eligible for state restoration funding assistance. The idea of interstitial monitoring was to be able to readily identify a release. If interstitial monitoring does not indicate a release at a site with existing contamination, the presumption should be that no new release has occurred. The theory behind spending billions of dollars on secondary containment and interstitial monitoring was to be able to identify releases.

We appreciate the Department’s efforts in rulemaking and look forward to working with staff as we proceed with subsequent workshops and perhaps smaller working groups as we have suggested. Please contact me if you have any questions or need additional information.

Sincerely,



Robert D. Fingar

cc: Mr. Ned Bowman, FPMA (via email)
Mr. Randy Miller, FRF (via email)



**CHAPTER 62-761
UNDERGROUND STORAGE TANK SYSTEMS**

62-761.100	Intent
62-761.200	Definitions
62-761.210	Reference <u>Requirements Standards</u>
62-761.300	Applicability
62-761.350	<u>Operator Training and Certification</u> (Reserved for Rulemaking)
62-761.400	<u>Registration and Financial Responsibility</u>
62-761.405	<u>Notification</u>
62-761.420	<u>Financial Responsibility</u>
62-761.430	<u>Incidents</u>
62-761.440	<u>Discharges</u>
62-761.450	<u>Notification and Reporting</u> (Repealed)
62-761.500	<u>Storage Tank System Requirements Performance Standards for Category C Storage Tank Systems</u>
62-761.510	<u>Performance Standards for Category A and Category B Storage Tank Systems</u> (Repealed)
62-761.600	<u>Release Detection Requirements Standards</u>
62-761.610	<u>Release Detection Methods</u> (Repealed)
62-761.640	<u>Performance Standards for Release Detection Methods</u> (Repealed)
62-761.700	<u>Repairs, Operation and Maintenance of Storage Tank Systems</u>
62-761.710	Recordkeeping
62-761.800	Out-of-Service and Closure Requirements
62-761.820	<u>Incident and Discharge Response</u> (Repealed)
62-761.850	<u>Alternative Procedures Requirements and Equipment Registration Approvals</u>
62-761.900	Storage Tank Forms

62-761.100 Intent.

(1) The purpose of this Chapter is to provide requirements standards for the registration, construction, installation, operation, maintenance, repair, closure, and disposal of underground storage tank systems that store regulated substances, in order and to minimize the occurrence and environmental risks of releases and discharges. This Chapter provides requirements standards for underground storage tank systems having individual storage tank capacities greater than 110 gallons.

(2) No change.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.100, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.200 Definitions.

All words and phrases defined in Sections 376.301 and 376.79, F.S., shall have the same meaning when used in this chapter unless specifically stated otherwise in this chapter. See Sections 376.301 and 376.79, F.S., for definitions of the following terms: "Contaminant (contamination shall mean the same as contaminant)," "Contaminated" ~~Contaminated~~ site," "Department," "Discharge," "Facility," "Hazardous substances," "Operator," "Owner," and "Pollutants." The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings: ~~The following words, phrases or terms used in this chapter, unless the context indicates otherwise, shall have the following meaning:~~

(Typo)

(1) No change

(2) "Biofuel" means fuel produced from renewable resources, especially plant biomass, vegetable oils, and treated municipal and industrial wastes. "AST" means an aboveground storage tank.

(3) "Bulk product piping" means on-site integral piping with an internal diameter greater than three inches that is utilized for transporting regulated substances.

(3)(4) "Cathodic protection" means a method of preventing corrosion of a metal surface by making that surface the cathode of an electrochemical cell through the use of devices such as galvanic anodes or impressed current.

(5) "Cathodic Protection Tester" means a person who can demonstrate an understanding of the principles



and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

(This definition should remain because the testing of cathodic protection systems, and in particular galvanic anode cathodic protection systems, do not require that same level of certification. Testers go in the field to verify adequate cathodic protection exists on a tank or pipe, but they do not design systems or perform retrofit. Their services are needed along with the definition to spell out the differences in responsibilities.)

(4)(6) “Certified Contractor” means a Pollutant Storage System Contractor certified by the Department of Business and Professional Regulation in accordance with Chapter 489, F.S. Except for the exemptions specified in Chapter 489, F.S., Certified Contractors are not required for activities that do not involve excavating or disturbing the backfill around UST systems. Certified Contractors are the only contractors authorized to perform the following activities for underground pollutant storage tank systems:

(a) Installation of:

1. USTs or integral piping, excluding drop tubes;

2. Overfill protection and spill containment;

3. Secondary containment;

4. Internal release detection devices;

5. Cathodic protection systems; and

6. Dispenser liners when the integral piping is connected or disconnected during the installation of secondary containment.

(b) Removal of tanks or integral piping; and

(c) Internal lining of tanks.

(Recommend leaving this clarifying language in for the benefit of regulated interests)

(5) “Certified Contractors Form” means Underground Storage Tank Installation and Removal Form for Certified Contractors 62-761.900(5).

(6)(7) “Chlorine” includes organic and inorganic compounds that are liquids at standard temperature and pressure that, when discharged, may release free chlorine (Cl₂) or chlorides (Cl⁻).

(7) “Closure Evaluation” means the investigation at the time of closure, replacement, installation of secondary containment, repairs performed because of an operational or structural problem that could potentially result in a release, or change in service from a regulated substance to a non-regulated substance for tanks, integral piping, and other system components that are in contact with the soil to determine if there has been a discharge.

(8) “Closure Report” is a document that contains the Closure Evaluation, as applicable, and a description of the closure activities and the condition and integrity of the storage tank system or storage tank system component at the time of closure, replacement, installation of secondary containment, ~~repairs performed because of an operational or structural problem that could potentially result in a release,~~ or change in service from a regulated substance to a non-regulated substance for tanks, integral piping, and other system components that are in contact with the soil.

(Language is too vague and could be misinterpreted by inspectors. Repairs have nothing to do with closure. If you are going to repair equipment, you intend to keep it. If it can't be repaired, then closure may be necessary. Recommend striking the reference to repairs in the definition because of the potential of inclusion of minor repairs and the additional cost. The environment will be protected through the definition of “discovery” if a release occurs during a repair.)

(9)(8) “Compatible” means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the storage tank system under conditions likely to be encountered in the storage tank system.

(9) “Contamination” or “contaminated” means the presence of regulated substances in surface water, groundwater, soil, sediment, or upon the land, in quantities result in exceedances of applicable cleanup target levels specified in Chapter 62-770, F.A.C., where petroleum or petroleum products are present, or water quality standards in Chapter 62-3, 62-302, or 62-550, F.A.C.



(10) “Corrosion Professional” means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal components of a storage tank system. Corrosion Professionals shall be accredited or certified by NACE International as a Cathodic Protection Specialist or Corrosion Specialist, or be a professional engineer licensed ~~registered~~ in the State of Florida.

Corrosion Professionals using vapor corrosion inhibitor technologies for corrosion control must have experience with and knowledge of vapor corrosion inhibitors, and installation certification from the vapor corrosion inhibitor technology registered in accordance with Rule 62-762.851(2), F.A.C.

(Establishes criteria for Corrosion Professionals using this technology for corrosion control.)

(10a) “Corrosion Protection” means the minimization of corrosion by the use of cathodic protection or by the use of vapor corrosion inhibitors.

(Reason – makes it clear that cathodic protection is not the only approved method of protecting metal surfaces from corrosion.)

(11) “County” means a locally administered program under contract with the Department to perform compliance verification activities at facilities with storage tank systems within the boundaries stipulated in the applicable contract.

~~(12)~~(13) “Day tank” means a storage tank system component in close proximity to an engine to provide a reliable supply of fuel.

~~(12) “Discharge” includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substance which occurs and which affects lands and the surface and ground waters of the state.~~

(13) “Discovery” means:

~~(a) Either actual knowledge or knowledge of facts that could reasonably lead to actual knowledge of the existence of an incident, release, or discharge, or an unmaintained storage tank system; or~~

~~(b) Discovery as specified in the Petroleum Contamination Site Cleanup Criteria subsection 62-770.200(10), F.A.C.~~

(14) “Dispenser” means a dispensing system that is used to transfer vehicular fuel from a fixed point to a vehicle.

(15) “Dispenser liner” means a liner installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(14) “Dispenser sump” means a storage tank system component installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

~~(15)~~(16) “Dispensing system” or “Dispenser” means equipment that is used to transfer regulated substances from integral piping through a rigid or flexible hose to a vehicle or portable container or pipe to another point of use outside of the storage tank system.

~~(16)~~(17) “Double-walled” means a storage tank system component that has an outer tank wall, or integral piping that has an outer wall that provides secondary containment of the primary tank or piping.

(17) “DRF” means Discharge Report Form 62-761.900(1).

(20) “Empty” means all regulated substances have been removed so that no more than one inch in depth or 0.3 percent by weight of total system capacity of regulated substances remains in the storage tank system.

(Recommend retention of this definition. It has not been a problem, and allows for condensate and other “de-minimus” amounts of liquid in the tank.)

(19) “Existing contamination” means:

(a) The presence of free product or sheen on the groundwater;

(b) The presence of vapor levels in monitoring wells measured in accordance with DEP’s “Guidelines for Vapor Monitoring” or by a Flame Ionization Detector or an equivalent instrument in excess of:

1. 500 parts per million total petroleum hydrocarbons for storage tank systems containing gasoline or



equivalent petroleum products; or

2. ~~50 parts per million total petroleum hydrocarbons for storage tank systems containing kerosene, diesel or other equivalent petroleum products;~~

(c) ~~Results of analytical tests on a groundwater sample that:~~

1. ~~Exceed the cleanup target levels for petroleum products' contaminants of concern specified in Table I of Chapter 62-777, F.A.C.; or~~

2. ~~Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or~~

3. ~~Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or~~

(d) ~~After July 13, 1998, results of analytical tests on a soil sample that:~~

1. ~~Exceed the lower of direct exposure residential and leachability based on groundwater criteria cleanup target levels for petroleum products' contaminants of concern specified in Table II of Chapter 62-777, F.A.C.; or~~

2. ~~Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above; or~~

3. ~~Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above.~~

(20) "Facility" means a nonresidential location containing, or that contained, any stationary tank or tanks containing, or that contained regulated substances, and that have, or had, individual capacities greater than 110 gallons for UST systems.

(18)(21) "Free product" means the presence of nonaqueous phase liquid in the environment a regulated substance in excess of 0.01 foot in thickness, measured at its thickest point, ~~floating on water, surface water or groundwater.~~

(22) "Hazardous substances" means those substances defined as hazardous substances in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(33) "Heating oil" means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces.

(Recommend retention of the definition of "Heating Oil" to avoid confusion to regulated interests. Not a problem now.)

(24) ~~"High viscosity" means a pollutant with a viscosity of 30 centistokes (cSt) and higher at 40 degrees Centigrade.~~

(25) "Hydraulic lift tank" means a tank that holds hydraulic fluid for a closed loop mechanical system used to operate lifts, elevators, and other similar devices.

(19)(26) ~~"Hydrostatic test" means a containment integrity test for a storage tank or storage tank system component that is performed in accordance with this Chapter using equilibrium and the pressure of liquids to test the integrity of the tank or system component.~~

(20)(27) ~~"Impervious" means:~~

(a) ~~a synthetic material or another material registered in accordance with subsection 62-761.850(2), F.A.C., that is compatible with the stored regulated substance, and has a permeability rate to the regulated substance stored of 1×10^{-7} cm/sec or less; or,~~

(b) ~~For concrete structures, a material that:~~

1. ~~Meets the design and construction standards of ACI 350R-89 and ACI 224R-89; or~~

2. ~~Is applied to the concrete in accordance with NACE International Standard RP0892-92~~

(21)(28) ~~"In contact with the soil" means any portion of a storage tank system, that physically touches the soil or, if not in direct contact with the soil, is separated from the soil only by a casing, wrapping, or other material that is not impervious, integral piping connected to USTs, or any portion of a tank, that:~~

(a) ~~Physically touches the soil; or~~

(b) ~~Is not in direct contact with the soil, and is separated from the soil only by a casing, wrapping, or other material that is not impervious.~~

(c) ~~Those portions of integral piping that are elevated and that are not in direct contact with the soil are excluded from this definition.~~

(22)(29) "Incident" is a condition or situation indicating that a release or discharge may have occurred from a



storage tank system.

(23) “INF” means Incident Notification Form 62-761.900(6).

~~(24)(30)~~ “In-service” means a storage tank system that is being actively operated and that contains greater than one inch or 0.3% by weight of regulated substance, ~~is being actively maintained and operated in accordance with this Chapter. Non-compliance with any specific rule within this Chapter does not exclude the system from being considered “in-service.” Subject to the above, a storage tank system is also considered to be in-service if it:~~

~~(a) Contains regulated substances or has regulated substances regularly added to or withdrawn from the system;~~

~~(b) Is emptied solely for the purpose of cleaning, routine maintenance, or a change in product, for a time period not exceeding 45 days; or~~

~~(c) Contains non-regulated substances and is still maintained in an in-service status at the request of the owner or operator.~~

(The 0.3% by weight requirement is not a current problem. Safeguards are being proposed in the notification section of the rule that would prevent owners from excessive reporting or notification for routine temporary out-of-service notifications to the Department.)

~~(25)(31)~~ “Integral piping” means on-site piping, originating or terminating at the regulated storage tank or tanks, that conveys regulated substances. Integral piping, not including vapor recovery lines and vent lines, includes all valves, elbows, joints, flanges, pumps, and flexible connectors, up to the:

~~(a) Union of the piping with the dispensing system;~~

~~(b) Fill cap or fill valve; or~~

~~(c) Forwarding pump used for transferring regulated substances to a flow-through process tank or an industrial production or manufacturing point of use; or~~

~~(d) First flange or connection within the loading rack containment area.~~

(The revision that excludes vapor recovery lines and vent lines is a good one and has full industry support)

~~(26)~~ “Integrity test” means a determination of the liquid tightness of a storage tank system component using one of the following types of tests:

~~(a) “Interstitial integrity test” means an evaluation of the interstitial space in a double-walled storage tank system component using vacuum, pressure, liquid level monitoring systems, or equivalent test methods certified by a Nationally Recognized Testing Laboratory; or~~

~~(b) “Primary integrity test” means an evaluation of the liquid tightness of the primary tank or integral piping.~~

~~(c) “Containment integrity test” means an evaluation of the liquid tightness of the hydrant pits, isolation valve pits, piping sumps, dispenser sumps, and spill containment systems.~~

(Adds additional systems used in the aviation industry and by the military.)

~~(32)~~ “Internal lining” means a material that is applied internally on USTs to protect the tank from internal corrosion.

~~(27)~~ “Interstice” means the space between the primary and secondary wall of a storage tank system component.

~~(28)(33)~~ “Interstitial monitoring” is a method of release detection in which the interstice is monitored. ~~release detection method that is used to determine the presence of regulated substances or water between the primary and secondary containment. Interstitial monitoring can be performed within:~~

~~(a) A closed interstitial space between two steel or impervious barriers that are sealed, not open to the atmosphere, and designed to be tested for a breach of integrity of the interstitial space; or~~

~~(b) An open interstitial space between two steel or impervious barriers that are open to the atmosphere, and not designed to be tested for a breach of integrity of the interstitial space.~~

~~(34)~~ “Liner” means an impervious material that meets the performance standards of paragraph 62-761.500(1)(d), F.A.C., that is used externally as a method of secondary containment.

~~(29)(35)~~ “Maintenance” means the normal operational upkeep in accordance with Rule 62-761.700, F.A.C., to prevent a storage tank system from releasing or discharging regulated substances.



(30)(36) “Nationally Recognized Testing Laboratory” means an international or national organization or governmental entity that can perform quantitative and qualitative tests on storage tank system equipment, evaluate the test data and equipment performance, and make determinations of the equipment’s capability of meeting the technical requirements/standards of this Chapter. A Nationally Recognized Testing Laboratory shall have at least five years of professional storage tank system equipment testing experience. **Nationally Recognized Laboratories include organizations such as Underwriter’s Laboratories, Carnegie Mellon Research Institute, Southwest Research Institute, Midwest Research Institute, Ken Wilcox Associates, Factory Mutual, and American Board of Engineering and Technology (ABET) Accredited Universities.**

(Recommend retention of this language to help equipment manufacturers and other interested parties with obtaining services.)

(31) “New” means a storage tank system or system component that is installed after the effective date of this Chapter.

(32)(37) “On-site” means on the same or geographically contiguous property as the facility regulated under this Chapter, that is under the same ownership or control, and which may be divided by a public or private right-of-way or an easement.

(33) “Operability test” means a test performed to determine if electronic and mechanical release detection and overfill protection devices or systems are functioning as designed and in accordance with manufacturers specifications.

(38) “Operational life” refers to the period from the start of installation of the storage tank system to the completion of the closure of the storage tank system in accordance with subsection 62-761.800(2), F.A.C.

(39) “Operator” means any person operating a facility, whether by lease, contract, or other form of agreement.

(34)(40) “Out-of-service” means a storage tank system **meeting the requirements in subsection 62-761.800(1), F.A.C., that the owner and operator removes from active operations for an extended period of time that:**

(a) Is designated as an out-of-service system by owner or operator notification to the Department on Form 62-761.900(2);

(b) Is empty as defined in subsection 62-761.200(18), F.A.C.; and

(c) Does not have regulated substances transferred into or withdrawn from the tank as specified in subsection 62-761.800(1), F.A.C., for a maximum time of:

1. Two years of being taken out of service for USTs; or

2. **Ten years** of being taken out of service for storage tank systems with secondary containment.

(Recommend retention of the 2004 definition with minor changes. This has not been a significant problem, and the new definition really isn’t defined. It just says “meeting the requirements in subsection 62-761.800(1), F.A.C.”, which really is of marginal use to owners trying to comply. The amended version above is more descriptive and useful for all parties involved)

(34)(41) “Overfill” is an incident a release or discharge that occurs when a tank is filled beyond its capacity.

(35) “Overfill protection” is a device or method for preventing an incident, release, or discharge from a storage tank during filling of the storage tank system.

(42) “Owner” means any person as defined in Section 376.301(23), F.S., owning a facility.

(36)(43) “Pesticides” mean any substance or mixture of substances, as defined in 487.201, F.S., intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the Department of Agriculture and Consumer Services by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term “pesticide” does not include any article that:

(a) Is a “new animal drug” within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act;

(b) Has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or

(c) Is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection, means all preparations, products, and substances included in the Department of Agriculture and Consumer Services’ Rule 5E-2.002, F.A.C.

(44) “Petroleum” includes:



~~(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and~~

~~(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph 62-761.200(44)(a), F.A.C.~~

~~(45) "Petroleum product" means any liquid fuel commodity made from petroleum.~~

~~(a) Forms of fuel considered to be petroleum products include all fuels known or sold as:~~

- ~~1. Diesel fuel;~~
- ~~2. Kerosene;~~
- ~~3. Gasoline; and~~
- ~~4. Fuels containing mixtures of gasoline and other products.~~

~~(b) Forms of fuel excluded from this definition are:~~

- ~~1. Liquefied petroleum gas;~~
- ~~2. American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils;~~
- ~~3. Bunker C residual oils;~~
- ~~4. Intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher;~~
- ~~5. Asphalt oils; and~~
- ~~6. Petrochemical feedstocks.~~

~~(37)(46) "Pipe" or "piping" means any hollow cylindrical or tubular conveyance through which regulated substances flow.~~

~~(38)(47) "Piping sump" or "Submersible turbine pump sump" means a storage tank system component liner installed as secondary containment or a monitoring port at the top of a tank or lowest point in the integral piping to detect releases.~~

~~(48) "Pollutants" includes any "product" as defined in Section 377.19(11), F.S., pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.~~

~~(49) "Pressure test" means a test to determine the integrity of integral piping performed in accordance with subparagraph 62-761.640(5)(a)1., F.A.C.~~

~~(39)(50) "Pressurized piping" means piping through which regulated substances flow due to a pump that is not located at the dispensing system.~~

~~(40)(51) "Product" as defined in Section 377.19(11), F.S., means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, used oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.~~

~~(52) "Registered Precision Tank Tester" means a contractor that performs tightness tests on USTs, and small diameter piping connected to USTs, that is registered by the Department of Business and Professional Regulation pursuant to Chapter 489, F.S.~~

~~(41) "Registration form" means Storage Tank Facility Registration Form 62-761.900(2).~~

~~(42)(53) "Regulated substance" means a liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), that is a pollutant or a hazardous substance, or any mixture of the two, when stored in a storage tank UST.~~

~~(43)(54) "Release" means:~~

- ~~(a) A discharge; or~~
- ~~(b) a loss of regulated substances from a storage tank system into the system's secondary containment.~~

~~(44)(55) "Release detection" means a method of:~~

- ~~(a) Determining whether a discharge of regulated substances has occurred; or~~
- ~~(b) detecting the presence of regulated substances within a storage tank system's secondary containment; and/or detecting other conditions or situations indicative of a release or discharge.~~

~~(56) "Release detection response level" is the point of measurement, calculation, observation, or level that is established for each individual release detection device or method at which an investigation must be initiated to determine if an incident, release, or discharge has occurred.~~

(Eliminating this well intended but no longer useful requirement is a good thing!))



~~(45)(57)~~ “Repair” means to restore or replace any defective or damaged parts of a storage tank system; in accordance with Rule 62-761.700, F.A.C. Replacement of a non-defective part is not a repair.

~~(46)(58)~~ “Residential storage tank system” means a storage tank system that services a non-commercial building that is used exclusively as a dwelling unit which means a structure that is used as a home or residence by one or more persons who maintain a common household, excluding transient occupancies, is located on property used primarily for dwelling purposes, and the storage and use of regulated substances in the tank is for residential purposes.

~~(47)(59)~~ “Secondary containment” means a release detection and discharge prevention system that meets the performance requirements standards of paragraph 62-761.500(1)(b), F.A.C., and includes dispenser sumps liners, piping sumps, spill containment systems, the outer wall of double-walled tanks and integral piping, or the liner systems, or single-walled tanks or piping systems that are contained within a liner or an impervious containment area surrounding single-walled tanks or integral piping.

~~(48)(60)~~ “Sheen” means a regulated substance less than or equal to 0.01 foot in thickness, measured at its thickest point, or visibly observed, floating on surface water, groundwater, or within secondary containment.

~~(61)~~ “Significant loss or gain” means the sum of losses and gains of a regulated substance over a 30-day or monthly period that exceeds:

~~(a)~~ For tanks with capacities between 111 and 2,000 gallons with an individual flow through less than 5,000 gallons during the previous 30 days:

- ~~1.~~ One percent of the tank capacity; or
- ~~2.~~ One percent of the total weekly output; or
- ~~3.~~ Fifty gallons, whichever is greatest; or

~~(b)~~ For tanks with capacities greater than 2000 gallons, or tanks with an individual flow through exceeding 5,000 gallons during the previous 30 days:

- ~~1.~~ One percent of the tank capacity; or

~~2.~~ One percent of the amount of product dispensed during the previous 30 days, plus 130 gallons, whichever is greatest.

~~(62)~~ “Small diameter piping” means integral piping with an internal diameter of three inches or less that is utilized for transporting regulated substances.

~~(49)~~ “Spill containment system” means a fixed component that is designed to prevent a discharge of regulated substances from the tank fill pipe.

~~(50)(63)~~ “Storage tank system” means a tank used to contain regulated substances, its integral piping, and all its components, including dispensing systems, spill containment systems devices, overfill protection systems devices, secondary containment systems, day tanks, and any associated release detection equipment. A storage tank system is a “storage system” as defined in Chapter 376.301, F.S.

~~(51)(64)~~ “Suction piping” means piping through which regulated substances flow due to a pump located at the dispensing system.

~~(52)(65)~~ “Tank” means an enclosed stationary container or structure that is designed or used to store regulated substances, and the volume of which, including the volume of underground piping, is ten percent or more buried beneath the surface of the ground.

~~(66)~~ “Tightness test” means a test for an underground storage tank or its small diameter piping that is performed in accordance with subparagraphs 62-761.640(3)(f)1. and (4)(b), F.A.C., by a precision tank tester registered with the Department of Business and Professional Regulation under Chapter 489, F.S.

~~(67)~~ “UST” means an underground storage tank.

~~(68)~~ “UST Category A system” means a system containing pollutants that was installed on or before June 30, 1992, or a system containing hazardous substances that was installed before January 1, 1991.

~~(69)~~ “UST Category B system” means a system containing pollutants that was installed after June 30, 1992, or a system containing hazardous substances that was installed on or after January 1, 1991, and before July 13, 1998.

~~(70)~~ “UST Category C system” means a system that was installed on or after July 13, 1998. USTs that are removed and relocated on or after July 13, 1998 are considered Category C systems.

~~(71)~~ “Unmaintained” means:

~~(a)~~ A storage tank system that was not closed in accordance with Department rules; or

~~(b)~~ An out of service storage tank system that is not returned to in-service status within:

- ~~1.~~ Two years of its being out of service for USTs; or
- ~~2.~~ Ten years of its being out of service for storage tank systems with secondary containment.

~~(72)~~ “Upgrade” means the addition or retrofit of cathodic protection, internal lining, spill prevention, overfill protection, or secondary containment, to a storage tank system, or the installation of single-wall corrosion resistant



storage tanks, to improve the ability of the storage tank system to prevent discharges of regulated substances.

(xx) “Temporary out-of-service” is a designation of a service status for an underground storage tank system that is emptied solely for the purpose of cleaning, routine maintenance, microbial contamination, a “stop sale” order by DACS, or change of product for a time period exceeding seven days, but less than three months.

(Recommend inclusion of this status. Facility Owners have encountered problems with alternative fuels and bio-fuels, and it provides a convenient way of dealing with temporary down-time to clean tanks or perform routine maintenance without the paperwork or notification that adds costs without benefits. FDEP is protected by the three months limitation.)

(53) “Valid Registration” means that applicable registration requirements that are specified in Rule 62-761.400, F.A.C., have been met for all regulated storage tank systems at a facility.

(67) “Vapor Corrosion Inhibitor” (VCI) means a chemical substance that volatilizes from a liquid or solid through vapor pressure and then moves freely within an enclosed airspace where the molecules preferentially adsorb onto metal surfaces and create a protective layer that inhibits the corrosive action of water, oxygen, acid gas molecules, and other corrosive agents with the metal surfaces.

(Includes vapor-corrosion inhibitor technology)

~~(73) “Vehicular fuel” means a petroleum product used to fuel motor vehicles, including aircraft, watercraft, and vehicles used on and off roads and rails.~~

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, 3-8-94, Formerly 17-761.200, Amended 9-30-96, 7-13-98, 6-21-04,_____.

Substantial rewording of Rule 62-761.210, F.A.C., follows. See Florida Administrative Code for present text.

62-761.210 Reference RequirementsStandards.

(1) Referenced requirements are available for inspection at the County Offices, and the Department of Environmental Protection’s District and Tallahassee Offices, and directly from the source.

(2) Titles of documents. References to documents listed in paragraphs 62-761.210(2)(a) through (l), F.A.C., below are made throughout this Chapter. Each document or part thereof is adopted and incorporated as a guideline only to the extent that it is specifically referenced in this Chapter. To the extent that the provisions contained in the following reference requirements conflict with this Chapter, the Department’s requirements as stated in this Chapter shall control.

(a) American Petroleum Institute (API), 1220 L Street, N.W. Washington, D.C. 20005, (202) 682-8000, or at <http://www.api.org/>.

1. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996;

2. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011;

3. Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996; and

4. Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006.

(b) ASME International (founded as the American Society of Mechanical Engineers), 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800) 843-2763, or at <http://www.asme.org/>; Process Piping, B31.3-2004, 2012 Edition.

(c) Florida Department of Environmental Protection (DEP), Division of Waste Management, 2600 Blair Stone Road, MS 4500, Tallahassee, Florida 32399-2400, (850) 245-8839; Storage Tank System Closure Guidelines - Closure Evaluation Guidance, or at www.dep.state.fl.us/ (effective date of the rule).

(d) NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, (800) 797-6223, or at



<http://www.nace.org/>:

1. Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition; and

2. Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition.

(e) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (800) 344-3555, or at www.nfpa.org/:

1. Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition;

2. Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C), 2012 Edition; and

3. Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition.

(f) National Leak Prevention Association (NLPA), Route 2 Box 106A, Falmouth, Kentucky 41040, (702) 832-2260, or at <http://www.nlpa-online.org/>.

(NLPA Standard 631?)

(g) National Institute of Standards and Technology (NIST), NIST, 100 Bureau Drive, Stop 1070, Gaithersburg, MD 20899-1070, (301) 975-NIST (6478), or at <http://www.nist.gov/index.html>.

~~(h) National Work Group On Leak Detection Evaluations (NWGLDE), <http://www.nwglde.org/>~~

(This group is not officially sanctioned by EPA and its members are volunteers. While very knowledgeable and well-intended, they have no legal standing and there is no appellate options if they disapprove of a leak detection method. Government cut-backs are going to continue to make it difficult for members to attend meetings for this group. DEP should not tie it's rule to their organization.)

(i) Petroleum Equipment Institute (PEI), Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918) 494-9696, or at www.pei.org/:

1. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition; and

2. Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition.

(j) Steel Tank Institute (STI), ~~944 Donata Ct.570 Oakwood Road~~, Lake Zurich, Illinois 60047, (847) 438-8265, or at <https://www.steeltank.com/>:

1. sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013; ~~and~~

2. Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006;-

~~3. Cathodic Protection Testing Procedures for sti-P3 UST's, STI R051-06, (R051)~~

~~4. Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, STI R972; and,~~

~~5. Storage Tank Maintenance STI R111, (R111),~~

~~6. Specification for External Corrosion Protection of FRP Composite Steel USTs - ACT-100® F894~~

~~7. Specification for External Corrosion Protection of Composite Steel USTs - ACT-100-U® F961~~

~~8. Permatank®: Specification for Permatank®, F922, January 2013~~

~~9. Standard for Dual Wall Underground Steel Storage Tanks, F841, January, 2006~~

(These standards are all recommended by the Steel Tank Institute as having relevance with the existing rule and for future installations, and the EPA federal UST regulations reference numerous Steel Tank Institute standards. Many underground steel storage tanks installed in Florida were built to these standards and they remain as useful references. Therefore, they should be included as references)

(k) Underwriters Laboratories Standards (UL), 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847) 272-8800, or at www.ul.com/:



1. Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition;
2. Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition;
3. Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition; and
4. External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition.

(Recommend the inclusion for UL 1856 for internal secondary containment.)

(l) U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001, (202) 512-1800, or at www.gpo.gov/;

1. Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST), Title 40, Part 280, July 2008; Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001; and
2. Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001.

(3) Applicability of Reference Requirements: Unless otherwise specified in this Chapter, facilities installed before *(the effective date of the rule)* are subject to the Reference Requirements listed in the Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities installed after *(the effective date of the rule)* shall comply with this subsection on or after *(the effective date of the rule)*.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Amended 7-13-98, 6-21-04, _____.

62-761.300 Applicability.

(1) General Requirements:

(a) ~~Underground storage tank systems:~~ The requirements of this Chapter, unless specified otherwise, apply to owners and operators of facilities, ~~and owners and operators of underground storage tank UST systems with individual storage tank capacities greater than 110 gallons, that contain or contained regulated substances:~~

1. ~~Vehicular fuel, subject to Chapter 17-61, F.A.C., after May 21, 1984;~~
2. ~~Pollutants or hazardous substances after December 10, 1990; or~~
3. ~~Regulated substances in unmaintained storage tank systems.~~

(b) ~~This rule is applicable to non-residential facilities. Under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal UST rules (advisory information only not required by this Chapter).~~

(2) Exemptions: The following ~~underground systems~~ are exempt from the requirements of this Chapter:

- (a) Any storage tank system storing any hazardous waste listed or identified under Subtitle C of the Resource Conservation and Recovery Act, or a mixture of such hazardous waste and other regulated substances;
- (b) Any storage tank system regulated under the Toxic Substances Control Act (15 U.S.C. 2065);
- (c) Any pesticide waste degradation system regulated under Chapter 62-660, F.A.C.;
- (d) Storage tank systems used solely for temporary storage of mixtures of pesticides and diluent for reapplication as pesticides;

(e) Any storage tank system with a storage capacity of less than 30,000 gallons used for the sole purpose of storing heating oil for consumptive use on the premises where stored. ***“Heating oil” means any petroleum-based fuel used in the operation of heating equipment, boilers, or furnaces;***

(Recommend leaving it in the definitions section)

(f) ~~Any tank that contains asphalt or asphalt products not containing other regulated substances;~~

(g) ~~Any storage tank system storing regulated substances that are solid or gaseous at standard temperature and pressure;~~

(h) ~~Any storage tank containing Liquid Petroleum Gas;~~

(g)(i) Any storage tank system that:

1. Contains a regulated substance at a concentration of less than two percent for pollutants and below the reportable quantities for hazardous substances under 40 C.F.R. 302; and



2. Was never previously regulated under Chapter 376.30 through 376.309, F.S. or this Chapter; contains small quantities (de minimus, as per 40 C.F.R. Section 280.10(b)(5)) of regulated substances;

~~(h)(j)~~ Any storage tank system that contains wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;

~~(i)(k)~~ Any septic tank system;

~~(l)~~ Any stormwater or wastewater collection system, including oil-water separator tanks;

~~(m)~~ Any surface impoundment, pit, pond, or lagoon;

~~(j)(n)~~ Any agricultural storage tank system of 550 gallons capacity or less that is used for agricultural purposes;

~~(k)(o)~~ Any residential storage tank system used solely for residential purposes. However, under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal underground storage tank rules;

~~(l)(p)~~ Any emergency spill or emergency overflow containment storage tank system that is emptied as soon as possible after use, and that routinely remains empty;

~~(q)~~ Any flow through process tank system. For industrial and manufacturing facilities, integral piping is considered to terminate at the forwarding pump or valve used to transfer regulated substances to process, production, or manufacturing points of use or systems within the facility;

~~(m)(r)~~ Any storage tank system, liquid trap, or associated gathering lines directly related to oil or gas production and gathering operations regulated by Chapter 377, F.S.; however, this exclusion does not apply to storage tanks that contain refined products;

~~(n)(s)~~ Any equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift or fluid tank systems that hold hydraulic fluid for closed-loop mechanical systems used to operate lifts, elevators, and other similar devices and cooling oil (dielectric fluid) systems used for electrical equipment and electrical equipment tank systems;

~~(o)(t)~~ Any pipeline, piping and "break-out" tanks directly connected to the pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration, pursuant to Title 49, Parts 190-199 of the Code of Federal Regulations facilities;

~~(p)(u)~~ Any storage tank system containing radionuclides or that is part of an emergency generator system for nuclear power generation at facilities regulated by the Nuclear Regulatory Commission under 10 C.F.R. Part 50 Appendix A;

~~(q)(v)~~ Any vapor recovery holding tanks and associated vapor recovery piping systems; or

~~(r)~~ Any storage tank system containing biofuel that has a concentration of regulated substance of five percent or less by volume.

~~(w)~~ Any rail or tanker truck loading or unloading operations (loading racks) specified in Chapter 5 of NFPA 30.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.300, Amended 7-13-98, 6-21-04, _____.

62-761.350 Operator Training and Certification (Reserved for Rulemaking)

62-761.400 Registration and Financial Responsibility.

(1) For installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction begins.

(b) A completed Form 62-761.900(2), Storage Tank Facility Registration Form (Registration Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the Department no later **than seven days before installation, or no later than 2140** days after installation notification to the County pursuant to Rule 62-761.405, F.A.C. Copies of the Registration Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(The current rule allows Registration 30 days after regulated or hazardous substances are put into any new storage tank system. The proposed rule requires 10 days after Installation Notification, which is 30 to 45 days before installation. This means an owner may have to submit the registration form 20 to 35 days before installation, a difference of 50 to 65 days before the existing



rule. What is the rush? With the new requirements for Operator Training and Delivery Prohibition, it is understandable that the DEP would want registration prior to Operation, but this paperwork takes time for owners to complete. It is recommended that this date be changed to "no later than seven days before installation, or no later than 21 days after installation notification")

(c) A completed Form 62-761.900(5), Underground Storage Tank System Installation and Removal Form for Certified Contractors (Certified Contractors Form), effective date, ~~(effective date of the rule)~~, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the County no later than 10 days after installation of a storage tank system. Copies of the Certified Contractors Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or, www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(2) For change in service status or closure pursuant to Rule 62-761.800, F.A.C.:

(a) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days after completion of the change in service status.

(b) A completed Certified Contractors Form shall be submitted to the County in paper or electronic format no later than 10 days after removal of a storage tank system.

(3) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days of the following changes or discovery:

~~(3) Financial responsibility.~~

~~(a) Any change in the owner or operator of a facility or of a storage tank system.~~

~~(a) General requirements.~~

~~1. The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance. Financial responsibility is only required for tanks containing petroleum or petroleum products. Financial responsibility is the ability to pay for corrective action and third party liability resulting from a discharge at the facility.~~

~~2. The demonstration of financial responsibility shall be made by the owner or operator in accordance with C.F.R. Title 40, Part 280, Subpart H.~~

~~3. Financial responsibility requirements for petroleum storage systems containing petroleum products may be supplemented by participation in the Florida Petroleum Liability Restoration and Insurance Program to the extent provided by Section 376.3072, F.S.~~

~~4. Notwithstanding the owner's or operator's financial responsibility status, the owner or operator may, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.~~

~~(b) Any change or correction in the information reported in the Registration Form. A change within the same blend of regulated substances should not be reported (e.g., regular unleaded to premium unleaded gasoline);~~

~~(b) The minimum requirements for financial responsibility for USTs containing petroleum or petroleum products shall be the same as provided by C.F.R. Title 40, Part 280, Subpart H.~~

~~(c) A change from a regulated substance to a non-regulated substance; and~~

~~(d) The discovery of an unregistered storage tank system.~~

~~(1) General registration requirements.~~

~~(a) The owner or operator of any facility, or the owner or operator of a storage tank system shall register the storage tank system with the Department on Form 62-761.900(2).~~

~~(b) A completed registration form shall be submitted to the Department no later than 30 days after regulated or hazardous substances are put into any new storage tank system.~~

~~(4)(2) Registration fees.~~

~~(a) Registration fees are due from the tank or facility owner or operator, as indicated in this section, for all registered storage tank systems required to be registered. Registration fees except for storage tank systems that have been properly closed in accordance with subsection 62-761.800(2), F.A.C., will no longer be due once any outstanding fees have been paid.~~

~~(b) A registration fee of \$50.00 per tank or vessel shall be submitted for each initial registration of a storage tank system. The fee shall be paid within 30 days after receipt of an invoice by the Department.~~

~~(c) A renewal fee of \$25.00 per tank shall be paid to the Department for each storage tank system not meeting the closure requirements of subsection 62-761.800(2), F.A.C. by July 1 each year.~~

~~(d) A replacement fee of \$25.00 per tank shall be paid to the Department for each tank that is replaced for the~~



purpose of facility upgrading, within 30 days after receipt of an invoice by the Department.

(e) A late fee of \$20.00 per tank shall be paid to the Department for any renewal that is received after July 31.

(f) Upon receipt of payment of all applicable initial registration fees and annual renewal fees, each facility shall receive a valid registration placard, pursuant to Section 376.3077, F.S. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the storage tank system is located. Posted on the Department website will be information regarding those motor fuel facilities who have not timely paid their registration fees. Each facility shall receive a registration placard upon payment of all applicable fees. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the tank is located.

(5) Unless a valid registration placard is displayed in plain view as required by paragraph 62-761.400(4)(f), F.A.C., no motor fuel may be deposited into a storage tank required to be registered pursuant to this Rule. Facility owners, operators and suppliers are each responsible for compliance with this provision.

(6) Revocation of Registration Placard. (Reserved for Rulemaking)

(7) Delivery prohibitions. (Reserved for Rulemaking)

Rulemaking Specific Authority 376.303, 376.322(2) FS. Law Implemented 376.303, 376.309, 376.323, 376.3077 FS. History–New 12-10-90, Formerly 17-761.400, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.405 Notification.

(1) For Installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction will begin.

(b) Notification shall be received by the County in writing or electronic format between 30 and 45 days before installation of a storage tank system or system component unless the County agrees to a shorter time period.

(c) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the installation work to confirm the date and time of the scheduled activities.

(2) For change in service status closure, or closure evaluation:

(a) Notification shall be received by the County in writing or electronic format between 10 and 25 days before the initiation of the work unless the County agrees to a shorter time period.

(b) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the initiation of the work to confirm the date and time of the scheduled activities.

(3) Notification of the discovery of an incident shall be made to the County in writing or electronic format on Form 62-761.900(6), Incident Notification Form (INF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 72 hours; however an INF need not be submitted if, within 72 hours of discovery, the investigation of the incident in accordance with Rule 62-761.430, F.A.C., confirms that a discharge did or did not occur. Copies of the INF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(4) Notification of the discovery of a discharge shall be made to the County in writing or electronic format on Form 62-761.900(1), Discharge Report Form (DRF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 24 hours. Copies of the DRF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.450, 62-761.450, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.420 Financial Responsibility.

(1) Financial responsibility is the ability to pay for cleanup of a discharge and third-party liability resulting from a discharge of petroleum or petroleum product at the facility.

(2) The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department for all storage tank systems until they are properly closed. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility.



However, both persons are liable in event of noncompliance.

(3) The demonstration of financial responsibility for storage tank systems shall be made available for inspection by the Department or the County and shall be in accordance with Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST) – Financial Responsibility, Title 40, Part 280, Subpart H, July 2008, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, hereby adopted and incorporated by reference, and is available from the address given.

(Why was sub-paragraph (4) included in the AST rule and excluded in the UST rule?)

(4) Notwithstanding the owner's or operator's financial responsibility status, the owner and operator shall, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.309 FS. History-New

62-761.430 Incidents.

(1) Incidents include:

(a) The following positive responses of release detection devices or methods described in Rule 62-761.600, F.A.C.:

1. Any visual inspection of ***any part of*** a storage tank system, ***dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances*** that reveals ***pitting corrosion with more than a fifty percent loss of its original design thickness, or cracking, splitting, blistering, delamination, softening*** ~~*signs of corrosion, cracks,*~~ structural damage, leakage, or other similar problems ***with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C.:***

(Cracks are usually seen within FRP and Polyethylene storage tank systems. What about incompatible issues, such as blistering, linings that are no longer adhering, or delamination? The proposed language will minimize potential inspector interpretation or judgment issues that have been a problem in the past, e.g. surficial rust on submersible turbine pumps, electrical conduits, piping sump hardware, or minor surficial rust on piping in sumps. This will allow the Department to focus on problems that are truly incidents.)

2. Any visual observation of regulated substances in a piping or dispenser sump;

3. Any alarm that indicates that liquid, vacuum, or pressure monitoring levels are not being maintained, or that liquid ***other than de minimus levels of condensate*** has been detected by a sensor in a normally dry interstice;

(Recognizes the inevitable presence of small amounts of condensate without missing a true incident)

4. Any visual observation that indicates that liquid monitoring levels are not being maintained;

5. Any vacuum or pressure change of ***50% 10%*** from one month to the next, or any cumulative change of vacuum or pressure exceeding ***50% 10%*** of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge;

(Recognizes real-world problems with fluctuations in vacuum and pressure without sacrificing environmental protection. I've seen significant changes from atmospheric pressure, the weight of the product in the tank, and daily temperature variations that affect vacuum and pressure gauges. If there is a leak at all, you will not be able to hold any vacuum, and the 50% level is a reasonable threshold. Also, having to refresh the vacuum at 50% is more cost effective)

6. Any visual inspection that indicates the presence of water ***other than de minimus levels of condensate*** and/or regulated substances in the interstice;



(Recognizes the inevitable presence of small amounts of condensate)

7. Any instance where a mechanical line leak detector is restricting flow;
8. Any instance where an electronic line leak detector has shut off power to the pump;
9. Any instance where a monitoring device has shut off the pump; and
10. Liquid in excess of one inch in an out-of-service storage tank.

(b) A failed integrity test for the following components;

1. Double-walled storage tanks;
2. Double-walled integral piping;
3. Piping sumps;
4. Dispenser sumps; and
5. Spill containment systems.

(c) Other unusual operating conditions, such as the erratic behavior of product dispensing equipment, the sudden loss of product from a storage tank system, or any unexplained presence of water in a tank or an interstitial space;

(d) The presence of odors of a regulated substance from surface water or groundwater, soil, basements, sewers and utility lines at a facility; and

(e) The loss of a regulated substance from a storage tank system, such as from an overflow, exceeding 25 gallons on impervious surfaces, other than secondary containment, provided that the loss does not come in contact with pervious surfaces.

(2) If an incident occurs at a facility, actions shall be taken within 24 hours of discovery to investigate the incident to determine if a discharge has occurred.

(3) Notification of the discovery of any incident shall be made to the County in writing or electronic format on an INF within 72 hours. However, an INF is not required to be submitted if, within 72 hours of discovery, the investigation of the incident confirms that a discharge did or did not occur.

(4) In cases where an INF is required to be submitted, the investigation shall be completed within 14 days of the date of discovery of the incident to determine if a discharge has occurred. Incident investigations that require additional time can be extended with the written approval of the Department or the County. However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system shall be placed out-of-service until such time the investigation is completed and resolved.

(5) At the end of the 14 day time period, or at the end of the alternate time period approved by the Department or the County to investigate the incident, either a DRF or a written confirmation and explanation that the incident was not a discharge shall be submitted to the County in writing or electronic format.

(6) The removal of any spill or loss of regulated substance into secondary containment shall be initiated within three days of discovery, and completed within thirty days of discovery.

(7) If a discharge is discovered at any time during the incident investigation, the discharge shall be reported on a DRF within 24 hours of discovery or before the close of the next business day, and a discharge response shall be initiated in accordance with subsection 62-761.440(6), F.A.C.

(8) All incidents, regardless of whether an INF is required to be submitted, shall be documented and records kept until storage tank system closure in accordance with Rule 62-761.710, F.A.C. Test results or reports, which support the investigation findings, shall be maintained as records.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History–New

62-761.440 Discharges.

(1) Discharges include:

(a) Laboratory analytical results of surface water or groundwater samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C.;

(b) Laboratory analytical results of soil samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C. that exceed the lower of direct exposure residential or leachability based on groundwater criteria cleanup target levels in Chapter 62-777, F.A.C.;

(c) The presence of free product, a visible sheen, sludge, or emulsion of a regulated substance, or a regulated substance that is visibly observed in soil, on or in surface water, in groundwater samples, on basement floors, in open drainage ditches, in open excavations or trenches, in subsurface utility conduits or vaults, or in sewer lines at the facility; and



- (d) A spill or overflow of a regulated substance to a pervious surface.
- (2) Upon discovery of a discharge, the owner or operator shall report the discharge to the County on a DRF within 24 hours or before the close of the County's next business day.
- (3) Copies of laboratory analytical results that confirm a discharge shall be submitted to the County within 24 hours of receipt of the results or before the close of the next business day in writing or electronic format.
- (4) A request for a retraction of a submitted DRF shall be submitted to the County or the Department in writing or electronic format if evidence is presented that a discharge did not occur at the facility.
- (5) A DRF does not need to be submitted:
- (a) For a discharge that was previously reported to the appropriate County on a DRF;
- (b) For petroleum or petroleum product de minimis discharges in accordance with Rule 62-780.560, F.A.C., unless the regulated substance has a more stringent reporting requirement specified in the following document which is hereby adopted and incorporated by reference, and is available from the address given: Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001; or
- (c) For ~~non-petroleum~~ ~~nonpetroleum~~ de minimis discharges in accordance with Rule 62-780.550, F.A.C., unless the pollutant has a more stringent reporting requirement specified in Title 40, Part 302.

(Typo)

- (6) Discharge response.
- (a) When evidence of a discharge from a storage tank system is discovered, the following actions shall be taken:
1. Fire, explosion, and vapor hazards shall be identified and mitigated;
 2. Actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules (e.g., Chapter 62-780, F.A.C., Contaminated Site Cleanup Criteria). Owners and operators are advised that other federal, state, or local requirements apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with Chapter 62-780, F.A.C.;
 3. Each component of the storage tank system shall be integrity tested within three days of discovery of the discharge if the source and/or cause of the discharge is unknown;
 4. The storage tank system component that is discharging shall be isolated from the system within three days of discovery of the discharge. If the component cannot be isolated from the system, within three days of discovery of the discharge the storage tank system shall not operate, dispense, or accept deliveries, or shall be placed out-of-service in accordance with Rule 62-761.800, F.A.C., until the component can be repaired or replaced;
 5. If the storage tank system component that was found to be discharging will be repaired, it shall be repaired in accordance with Rule 62-761.700, F.A.C.;
 6. If the storage tank system component that was found to be discharging will be replaced, it shall meet the storage tank system requirements in accordance with Rule 62-761.500, F.A.C.; and
 7. If the storage tank system component that was found to be discharging will not be repaired or replaced, the storage tank system, if not already out-of-service, shall be placed out-of-service within 90 days or be closed in accordance with Rule 62-761.800, F.A.C.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History–New _____.

62-761.450 Notification and Reporting.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.450, Amended 9-30-96, 7-13-98, 6-21-04., Repealed _____.

Substantial rewording of Rule 62-761.500, F.A.C., follows. See Florida Administrative Code for present text.

62-761.500 Performance Standards for Category C Storage Tank Systems Requirements.

- (1) General requirements.
- (a) Wellhead Protection. Persons are advised that Chapter 62-521, F.A.C., contains restrictions regarding the location of storage tank systems within 500 feet of a potable water well.



(b) Secondary containment.

1. The materials used for secondary containment shall be:

a. Impervious to the regulated substance and able to withstand deterioration from external environmental conditions;

b. Non-corrosive or of corrosion-protected materials; and

c. Of sufficient thickness and strength to withstand hydrostatic forces at maximum capacity to prevent a discharge.

2. For cathodically protected tanks and integral piping, secondary containment systems shall not interfere with the operation of the cathodic protection system.

3. For VCI protected tanks, the secondary containment system shall provide containment for the vapor corrosion inhibitors.

(Includes vapor-corrosion inhibitor technology)

3. Secondary containment systems shall be designed and installed to direct any release to a monitoring point or points.

4. Containment and interstitial, as applicable, integrity tests shall be performed for all spill containment systems, piping sumps, hydrant sumps, and dispenser sumps before placing the components into initial use. The tests shall be in accordance with manufacturer's requirements. If a hydrostatic test is used, it shall be performed for at least:

a. Twenty-four hours for field-fabricated components; or

b. Three hours for factory-made components.

5. An interstitial integrity test shall be performed on the storage tank after it is delivered to the facility and before the storage tank is placed into service. This test shall be performed in accordance **with manufacturer's requirements and** with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition, Petroleum Equipment Institute (PEI), Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380, and Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition, Petroleum Equipment Institute (PEI) Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380.

(Clarification)

6. An interstitial integrity test shall be performed on integral piping in accordance with PEI/RP100-11 and PEI/RP1200-12 before the integral piping is placed into service.

7. An interstitial integrity test shall be performed on double-walled spill buckets or double-walled sumps in accordance with PEI/RP1200-12 before the component is placed into service.

(Note – double-wall spill buckets or piping sumps are not required by rule or statute. However, if and owner choose to install a double-wall spill bucket or piping sump, it makes sense to perform a test at installation)

(c) Cathodic protection.

1. Test stations. Cathodic protection systems shall be designed, constructed, and installed with test stations in accordance with NACE standards contained in paragraph 62-761.210(2)(d), F.A.C. Cathodic protection test stations shall provide direct access to the soil in close proximity to each cathodically protected structure for placement of reference electrodes, and monitoring wires that connect directly to cathodically protected structures. Facilities where direct access to soil in close proximity to cathodically protected structures is present, and where electrical connections to cathodically protected structures can be conveniently accomplished, need not have separate dedicated cathodic protection test stations.

2. The cathodic protection system shall be operated and maintained in accordance with subsection 62-761.700(2), F.A.C.

3. Any field-installed cathodic protection system shall be designed and installed by or under the direction of a Corrosion Professional.



4. Supplemental anodes that are added to a sti-P3 tank can be installed according to STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs.

(Correct reference)

(d) Corrosion Protection with Vapor Corrosion Inhibitors (VCI)

1. Testing locations for vapor corrosion inhibitors. Vapor Corrosion Inhibitor technologies registered with the Department in accordance with Rule 62-762.851(2), F.A.C. provide an alternative to cathodic protection for protection of metal surfaces within secondary containment. Vapor corrosion inhibitors (VCI) effectiveness shall be established by the use of electrical resistance probes located in testing locations as recommended by a Corrosion Professional to monitor corrosion rates. Electrical resistance (ER) probes must be able to determine corrosion rates based on the increase in electrical resistance over time of a metal element on the probe surface where the metal loss in the element's cross-sectional area from corrosion will be accompanied by a proportional increase in the element's electrical resistance. If electrical resistance probes cannot be incorporated into the VCI protection system, then an alternate method as recommended by a Corrosion Professional shall be used.

2. Any field-installed VCI protection system shall be designed and installed by or under the direction of a Corrosion Professional and the VCI manufacturer's certified installer. The VCI protection system shall be operated and maintained in accordance with subsection 62-762.701(3), F.A.C.

(Language needed to allow the use of corrosion protection systems previously approved by the Department that are equivalent to cathodic protection systems for USTs)

(d) Compatibility. The primary and secondary walls of storage tank systems shall be made of, or internally lined with, materials that are compatible with the regulated substance stored in the storage tank systems and with substances or conditions present in the environment. All storage tank systems containing blends of ethanol, biodiesel, or other biofuels and additives shall be compatible with the regulated substances stored in the storage tank systems.

(e) All components of a storage tank system shall be installed in accordance with the manufacturer's instructions.

(f) All storage tank systems shall be installed in accordance with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070.; Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Process Piping, B31.3-2004, 2012 Edition, ASME International (founded as the American Society of Mechanical Engineers), Published by ASME, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900; and PEI/RP100-11.

(g) A Certified Contractor shall perform the installation of storage tank systems containing pollutants, including tanks, integral piping (excluding drop tubes), overfill protection and spill containment equipment, internal release detection equipment, cathodic protection systems, secondary containment systems, and dispensing systems, if the installation of the storage tank system component disturbs the backfill, or where the integral piping is connected or disconnected during installation.

(h) Whenever storage tanks and/or integral piping are installed, modified or relocated after the effective date of this rule, Record Drawings ("as-builts"), signed and sealed by a professional engineer licensed in the state of Florida, shall be completed and maintained as a record in accordance with Rule 62-761.710, F.A.C. The as-built drawing shall include all construction and equipment design specifications including exact dimensions, geometry, and locations of the storage tanks and/or integral piping, of the work completed under contract, and any changes made to the original specifications during the construction process.

(Note – this requirement for "As-builts" only makes sense for UST systems, but it will add an additional cost. The increase in costs should be quantified before the passage of the rule to



determine if there is a significant environmental benefit for the extra cost.)

(2) Storage Tanks.

(a) All storage tanks at a facility shall have secondary containment and shall be constructed or installed to provide for interstitial monitoring of the entire storage tank.

(b) Fiberglass reinforced plastic double-walled tanks shall be constructed in accordance with the following document, Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference and available at the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(c) Cathodically protected double-walled steel tanks shall be:

1. Constructed in accordance with the following documents, or as applicable: Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, and External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and are available from the addresses given;

2. Constructed in accordance with the following document, sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given; or

3. Constructed in accordance with the following document, STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given; or

(This RP fulfills the requirements of c.3 specifically for the STI sti-P3 cathodic protected tank)

3. Certified by a Nationally Recognized Testing Laboratory for any field-installed cathodic protection system, that these requirements are met, constructed and designed by a Corrosion Professional in accordance with the following document, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and is available from the address given.

(d) Double-walled steel tanks coated with a fiberglass reinforced plastic composite shall be constructed in accordance with UL 58 and UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(e) Jacketed steel tanks shall be constructed in accordance with UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(Paragraph (d) precludes the use of jacketed tanks. These are steel tanks with an outer non-metallic tank that provides both corrosion protection and secondary containment. These tanks are built to UL 1746 and should be included as a new paragraph (e).)

(e) Double-walled storage tanks that meet the above performance requirements, that are constructed of equivalent material, have an equivalent design, or are corrosion protected shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(f) Tanks shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(g) Double-walled storage tanks that have been removed and that are to be reinstalled at a different location shall:



1. Be recertified that all original warranties are confirmed by the original manufacturer or the manufacturer's successor, and be reinstalled in accordance with the requirements in this section; or
2. Be recertified by a professional engineer licensed in the state of Florida that the storage tank meets all applicable requirements of this section; and
3. Proof of recertification shall be provided to the Department and County prior to the start of installation. The storage tank shall be re-registered in accordance with subsection 62-761.400(1), F.A.C.
- (3) Integral piping.
 - (a) All integral piping, including remote fill piping that is in contact with the soil shall have secondary containment; or
 - (b) All integral piping that transports regulated substances over surface waters of the state shall have secondary containment and shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials; or
 - (c) All integral piping that is not in contact with the soil shall meet the construction requirements in paragraphs 62-761.500(3)(d)2. through 4., F.A.C., shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials.
 - (d) Construction requirements.
 1. Fiberglass reinforced plastic integral piping or other non-metallic double-walled integral piping installed in contact with the soil at a facility shall meet the requirements of Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.
 2. Coated steel double-walled integral piping shall be constructed in accordance with ASME B31.3. In addition, steel integral piping in contact with the soil shall be cathodically protected in accordance with the following documents: Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070; Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906; and Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and available from the addresses given.
 3. Metallic double-walled integral piping constructed of nonferrous materials such as copper shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, Piping Systems.
 4. Integral double-walled piping constructed of other materials, design, or corrosion protection shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.
 - (e) Integral piping shall be installed with a slope to a low point monitoring system to allow for release detection in accordance with Rule 62-761.600, F.A.C.
 - (f) Pressurized integral piping systems connected to dispensers shall be installed with shear valves or emergency shutoff valves in accordance with Section 6.3 of NFPA 30A, Requirements for Dispensing Devices. These valves shall be designed to close automatically if a dispenser is displaced from its normal position. The valves shall be rigidly anchored independently of the dispenser. The valves shall be tested in accordance with PEI/RP1200-12 at the time of installation by a certified contractor to confirm that the automatic closing function of the valve operates properly and that the valve is properly anchored.
 - (g) All storage tanks located at an elevation that produces a gravity head on the dispenser or on integral piping positioned below the product level in the storage tank must be installed and maintained with an isolation block valve in accordance with Chapter 22.13 of NFPA 30, Tank Openings Other Than Vents, and located as close as practical to the storage tank. In addition, anti-siphon valves for suction and pressurized systems with dispensers that are subject to NFPA 30A, shall be installed and maintained in accordance with Section 11.2 of NFPA 30A, Marine Fueling - Storage. Storage tank systems without dispensers shall be installed with valves that will prevent the tanks from emptying if there is a leak or break in the integral piping.
 - (h) Pressurized integral piping systems connected to dispensers shall be installed with a method of leak detection that can detect a leak within one hour, and can include a mechanical line-leak detector or an electronic line leak detector, or another device registered in accordance with Rule 62-761.850(2)F.A.C.**



(Ought to be in this section as well as Section 600 to make it clear to owners and operators)

(i) Storage tank systems using corrosion protection systems with vapor corrosion inhibitors that are registered in accordance with Rule 62-762.851(2), F.A.C. shall be designed and installed under the direction of a Corrosion Professional and shall be installed with at least one electrical resistance probe test location or a method of monitoring to allow for a determination of the corrosion rate within the interstitial space or metallic surface within a contained area. The VCI system shall be designed and installed in accordance with the requirements specified in Rule 62-762.701(2), F.A.C.

(Allows the use of VCI's for interstitial corrosion protection)

(4) Spill containment systems.

(a) Storage tank systems shall be installed with a spill containment system at each tank fill connection meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C..

(b) Fillbox covers shall be marked or the fill connection tagged in accordance with Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, hereby adopted and incorporated by reference, and is available from the address given, or with an equivalent method approved by the Department in accordance with subsection 62-761.850(1), F.A.C.

(c) Spill containment systems, ~~including double-walled spill containment systems~~, shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. **Double-wall spill containment systems are not required to perform interstitial integrity tests or monthly interstitial monitoring observations, and are considered single-wall spill buckets for the purpose of this rule.**

(Note – double-wall spill buckets are not required by rule or statute. If an owner chooses to purchase double-wall spill containment, it makes sense to perform a test at installation in accordance with manufacturers specifications, but owners should not be punished with more costs if they have double-wall spill buckets, so DEP should not require monthly interstitial monitoring or interstitial B.O.I.'s after installation unless an owner chooses to perform one instead of a hydrostatic test of the primary.)

(5) Dispensing systems and dispenser sumps.

(a) The dispensing system used for transferring fuels from storage tanks to vehicles or portable containers shall be installed and maintained in accordance with the provisions of NFPA 30 and Chapter 6, Fuel Dispensing Systems; Chapter 9, Operational Requirements; and Chapter 11, Marine Fueling of NFPA 30A.

(b) Dispensers shall be installed with a dispenser sump meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C. The dispenser sump shall extend beneath the union of the integral piping and the dispenser, including the shear valve, if applicable.

(c) Dispenser sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. The dispenser sump shall be capable of containing a release for the entire area beneath the dispenser.

(6) Piping sumps.

(a) Piping sumps shall meet the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and be registered in accordance with subsection 62-761.850(2), F.A.C. The sumps shall be designed, constructed, and installed to minimize water entering the sump.

(b) Piping sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(7) Overfill protection.

(a) Owners or operators shall ensure that the volume available in the storage tank is greater than the volume of regulated substances to be transferred to the storage tank before the transfer is made and shall ensure that any transfer is repeatedly monitored to prevent overfilling and spilling.

(b) Storage tank systems shall be equipped with an overfill device that:

1. Automatically shuts off flow to the storage tank when the storage tank is no more than 95% full;



2. Restricts flow to the storage tank when the storage tank is no more than 90% full and does not fill the storage tank beyond 95% capacity. Vent restriction devices such as ball float valves shall not be installed at facilities after (the effective date of the rule) unless the storage tank system meets the requirements of Section 7 of PEI/RP 100-11, UST Overfill Equipment Verification, Inspection and Testing; or

3. Alerts the transfer operator when the tank is no more than 90% full by triggering an alarm and does not fill the tank beyond 95% capacity.

(c) Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.

(d) Storage tank systems with capacities of 2000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser are exempt from overfill protection requirements provided that the tanks are never filled beyond 80% capacity.

(e) Overfill devices shall be registered in accordance with subsection 62-761.850(2), F.A.C.

(f) New day tanks shall be installed with an overfill protection system that returns the regulated substance to the storage tank from the day tank through separate integral piping.

(g) All new float control valves installed on day tanks and all overfill alarms on storage tanks shall be tested annually at intervals not exceeding 12 months to demonstrate the float control valve or alarm is operating as designed. These records shall be kept for five years in accordance with Rule 62-761.710, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.500, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.510 Performance Standards for Category-A and Category-B Storage Tank Systems

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303-.3072 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.510, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.600 Release Detection Requirements Standards.

(1) General requirements.

(a) Storage tank systems shall have a method, or combination of methods, of release detection that:

1. Can detect a new release from any portion of the storage tank system;

(b) Any storage tank system without a method, or combination of methods, of release detection in accordance with this section, shall immediately provide a method of release detection, or immediately empty the storage tank system and place the affected system out-of-service, or close the system in accordance with subsection 62-761.800(2), F.A.C.

(c) Any component of a storage tank system with an interstice shall have a method of interstitial monitoring.

Interstitial monitoring can be performed with vacuum, pressure, hydrostatic (liquid-level sensing), sensors or probes, and visual release detection methods.

(Clarification)

2. Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability to ensure that the device is functioning as designed; and

3. Meets the applicable performance standards in Rule 62-761.640, F.A.C. All manufacturer's instructions, and the performance claims and their manner of determination described in writing by the equipment manufacturer or installer shall be retained for as long as the storage tank system is used.

(b) A release detection response level shall be described in writing for each method or combination of methods of release detection used for a storage tank system.

(c) A release detection method shall be established and provided for all storage tank systems upon installation.

(d) Except as otherwise specified in this Rule Rules 62-761.600-.640, F.A.C., the release detection method or combination of methods used at a facility shall be performed at least once every a calendar month, but not exceeding 35 days, to determine if a release from the storage tank system has occurred.

(e) Visual inspections. **Any Every** component of a storage tank system **that contains, transfers, or stores, or is designed to contain, transfer, or store pollutants** that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of **of any component a storage tank system, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances** that reveals **pitting corrosion with more than a fifty percent loss of its original design thickness, or cracking, splitting, blistering, delamination, softening signs of**



~~corrosion, cracks,~~ structural damage, leakage, or other similar problems with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C. is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. Repairs shall be made in accordance with Rule 62-761.700, F.A.C. A monthly visual inspection is not required for any system component using an electronic release detection method, but piping sumps must be visually inspected every six months and records kept of the visual inspection. At least once a month, but not exceeding 35 days, any storage tank and component of a storage tank that can be inspected visually shall be visually inspected in accordance with paragraph 62-761.640(2)(c), F.A.C. A visual inspection is not required for any system component that has a continuous or monthly electronic release detection sensor. Continuous electronic leak detection devices shall be inspected for proper operation on a monthly basis. Inspection may consist of visual observation or remote verification of proper operation.

(Same language as used in the INF section, and will ensure that only bonafide incidents will be reported, and that minor ethanol-induced corrosion will not be included. The proposal for semi-annual visual inspections of piping sumps is a safeguard for faulty sensors)

(f) Electronic and mechanical release detection devices shall be:

1. Installed, calibrated, operated and maintained in accordance with the manufacturer's instructions and shall be designed and installed to provide service checks for operability to ensure that the device is functioning in accordance with subsection 62-761.700(3), F.A.C.; and

2. Registered in accordance with subsection 62-761.850(2), F.A.C., except that controllers or annunciators that are used to display leak detection test results are not required to be registered. A site suitability determination shall be performed for UST systems by December 31, 1998, in accordance with paragraphs 62-761.640(2)(a) - (d), F.A.C., for storage tank systems using groundwater or vapor monitoring wells for release detection. If the site suitability determination indicates that on-site conditions are unsuitable for external monitoring, another method of release detection must be used.

(g) Electronic release detection devices shall be inspected for proper operation at least once every calendar month, but not exceeding 35 days. A record or summary of the alarm history, sensor status and testing results related to potential releases shall be printed from any electronic release detection device. If the release detection system is not capable of printing records, a manual log shall be maintained of the alarm history, sensor status and testing results. Vapor monitoring plans shall be performed by December 31, 1998, for UST systems, in accordance with paragraph 62-761.640(2)(d), F.A.C., for storage tank systems using vapor monitoring for release detection.

(h) Release detection shall be constructed and installed so that groundwater, rainfall, or soil moisture will not render the release detection method used inoperable. Any component of a storage tank system with secondary containment shall have an interstitial monitoring method meeting the requirements of paragraph 62-761.640(3)(a), F.A.C.

(i) Storage tank systems that store fuel solely for use by emergency power generators shall comply with the release detection requirements of Rule 62-761.600, F.A.C., within 90 days of the effective date of the Rule. Pressurized piping, excluding bulk product piping, shall be equipped with a line leak detector that meets the standards of paragraph 62-761.640(4)(a), F.A.C. Gravity piping systems are exempt from this requirement.

(2) Storage Tanks.

(a) One or more of the following release detection methods shall be used:

1. Liquid level monitoring systems with electronic hydrostatic sensors. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid levels can not be maintained. Any alarm that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Vacuum monitoring. This method shall be able to detect incidents by determining changes in vacuum levels within the interstice by continuous monitoring of vacuum levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if vacuum levels can not be maintained. Any alarm that indicates that vacuum levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

3. Pressure monitoring. This method shall be able to detect incidents by using an inert gas and determining



changes in pressure levels within the interstice by continuous monitoring of pressure levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if pressure levels can not be maintained. Any alarm that indicates that pressure levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

4. Electronic sensors in a normally dry interstice. This method shall be able to detect the presence of liquid in the interstice or monitoring low point and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid is detected. Any alarm that indicates the presence of liquid is considered a positive response, and except for liquids confirmed as de minimus amounts of condensate, the ~~The~~ positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(Recognizes the common reality of small amounts of interstitial condensate)

5. Visually inspected liquid level monitoring systems. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir. Any visual observation that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

6. Visually inspected vacuum or pressure monitoring with gauges. This method shall be able to detect incidents by determining changes in vacuum or pressure levels within the interstice.

a. Vacuum or pressure readings shall be able to detect a ~~50-10%~~ **50-20%** change from one month to the next, or any cumulative change of vacuum or pressure exceeding ~~50-20%~~ of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge. Vacuum or pressure refreshment must be performed in accordance with manufacturer's specifications and the system's equipment registration in subsection 62-761.850(2), F.A.C. Any change indicated above is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(Release detection with gauges for USTs with double-walls, as well as associated integral piping, is often difficult because of variable influences and factors such as temperature, humidity and water in the piping sump, atmospheric pressure, and piping runs that go above and below ground. Small changes in vacuum and pressure are inevitable, and the 50% proposal will assist with the range of fluctuations that can occur. If there is a hole or breach in the system, it will not be able to hold ANY vacuum).

b. Liquid-filled gauges shall be calibrated using NIST traceable standards prior to initial operation. The gauges shall be operational at all times.

7. Visual monitoring of normally dry interstices. This method shall be able to detect the presence of liquid at a low point of the interstice. Any presence of water and/or regulated substances in the interstice **other than de minimus levels of condensate** is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(Recognizes the inevitable presence of small amounts of condensate)

8. Visual monitoring of liners. This method shall be able to detect the presence of liquid at a low point of the liner. The accumulation of water or condensation in the low point of the liner shall not interfere with the ability to detect regulated substances. Any **evidence of petroleum-stained containment surfaces, free product, or leaking of regulated substances from any part of a storage tank system secondary containment presence of regulated substances** in the liner is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(If left unchanged, the "any presence" requirement could be interpreted by inspectors as a



slight sheen from a couple of drops of fuel released when a fuel filter was changed. It would create incidents at nearly every facility in Florida)

(3) Integral piping with secondary containment.

(a) One or more of the release detection methods in subsection 62-761.600(2), F.A.C., shall be used.

(b) In addition, pressurized small diameter integral piping in contact with the soil shall be equipped with a release detection system that can detect a leak within one hour. One of the following methods shall be used:

1. Mechanical line leak detectors. Mechanical line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and restrict flow within one hour. Any instance where the mechanical line leak detector is restricting flow is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Electronic line leak detectors. Electronic line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and shut off power to the pump. Any instance where the electronic line leak detector has shut off power to the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. **Monthly release detection printed tapes from automatic tank gauges for electronic line leak detectors are not required to be kept as records to demonstrate compliance, but a positive response from an electronic line leak detector must be recorded and investigated in accordance with Rule 62-761.430, F.A.C.**

(Makes it clear that owners and operators of electronic line leak detectors are not punished for having a more effective and environmentally friendly method of piping release detection than owners with mechanical line-leak detectors that are not as effective.)

3. Electronic interstitial monitoring devices. Storage tank systems without line leak detectors, shall have electronic interstitial monitoring devices that are capable of detecting a release of ten gallons within one hour and shutting off the pump. Any instance where the monitoring device has shut off the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(4) Annual operability testing of release detection systems. All release detection devices shall be tested annually at intervals not exceeding 12 months to ensure proper operation. The test must either simulate an actual alarm condition or shall be conducted according to manufacturer's specifications, and shall include, at a minimum, a determination of whether the device operates as designed. Remote testing of the system can be performed by the manufacturer if the remote test is included in the third party certification by a Nationally Recognized Testing Laboratory.

(5) Records shall be kept for **threefive** years in accordance with Rule 62-761.710, F.A.C.

(Recordkeeping for three years correlates to the Departments inspection frequency and is less of a burden for facility owners)

(j) Any storage tank system not provided with a method, or combination of methods, of release detection in accordance with this section, shall be closed in accordance with subsection 62-761.800(2), F.A.C., by the date upon which release detection is to be provided.

(k) Groundwater and vapor monitoring wells meeting the standards for external monitoring specified in paragraphs 62-761.640(2)(a)-(d), F.A.C., that are no longer used for release detection, shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 2010. Wells not meeting these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are:

1. Used for contamination assessment purposes as specified in paragraph 62-761.600(2)(d), F.A.C.; or
2. Required by rules adopted by a County government in accordance with Section 376.317, F.S.

(2) By December 10, 1990, vehicular fuel petroleum storage tank systems of greater than 550 gallon capacity shall be provided with release detection. Release detection for all other storage tank and integral piping systems in contact with the soil shall be provided by December 31 of the year shown in Table RD.

TABLE RD



Year Storage Tank System Installed	Year Release	Detection Required		
Before 1970 or unknown	P/RD	1991	1992	1993
1970-1974	P	RD		
1975-1979	P		RD	
1980-1990	P			RD

P = Installation of Release Detection for Pressurized Piping

RD = Installation of Release Detection for Tanks and Suction Piping.

(3) Effective December 31 of the applicable year specified under the schedule in Table RD, any groundwater monitoring plan or spill prevention control and countermeasure plan implemented before December 22, 1990, shall be capable of detecting the leak rate or quantity specified in paragraph 62-761.640(1)(a), F.A.C.

(4) UST systems that store fuel solely for use by emergency power generators are not required to comply with the release detection standards of Rules 62-761.600 through 62-761.640, F.A.C.

(5) Monitoring wells shall meet the standards of subsection 62-761.640(2), F.A.C., by December 31, 1998. Wells that do not meet these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are required by a rule that was adopted by a County government in accordance with Section 376.317, F.S. However, if a monitoring well is used solely for the purpose of monitoring petroleum contamination in accordance with Chapter 62-770, F.A.C., the well does not have to be closed until the completion of the site rehabilitation pursuant to Chapter 62-770, F.A.C. Covers of leak detection monitoring wells redesignated as site assessment wells by the facility owner or operator shall be colored black with a white circle within the black background. The diameter of the white circle shall be approximately one half the diameter of the manhole cover, or approximately four inches.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.3072 FS. History—New 12-10-90, Formerly 17-761.600, Amended 7-13-98, 6-21-04, _____.

62-761.610 Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.610, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.640 Performance Standards for Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.640, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

Substantial rewording of Rule 62-761.700, F.A.C., follows. See Florida Administrative Code for present text.

62-761.700 Repairs, Operation and Maintenance of Storage Tank Systems.

(1) Repairs.

(a) Repairs shall be performed, as necessary, if any component of a storage tank system has:

1. A release or contributed to a release of a regulated substance; or

2. **Other than de minimus levels of condensate, an An** operational or structural problem that could potentially result in a release, or lead to the presence of water in the interstice of a double-walled storage tank or integral piping.

(b) The storage tank system shall immediately cease operating, dispensing, and/or accepting deliveries, if:

1. Repairs are required for any component of a storage tank system; and

2. The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shut down of electrical generating units serviced by the storage tank system.

(c) Repairs shall be made:

1. To restore the structural integrity of the storage tank system and in a manner that will prevent releases or discharges from structural failure or corrosion for the remaining operational life of the storage tank system; and



2. In accordance with manufacturer's specifications and applicable reference requirements.

(d) **If repairs are needed for any primary or secondary tank or piping system walls, or any component of the storage tank system with an interstitial space, then the repaired** ~~Repaired~~ components shall be integrity tested for liquid tightness before being placed back into operation.

(This proposed revision in red limits the integrity testing to the primary and secondary spaces for shop-fabricated storage tanks and will minimize inspector misinterpretation)

(2) Cathodic **and Corrosion** protection.

(a) Cathodic **and Corrosion** protection systems shall be operated and maintained to provide continuous corrosion protection to the metal components of those portions of the storage tank and integral piping in contact with the soil **or within interstitial spaces using vapor corrosion inhibitor technologies**.

(b) Inspection and testing requirements.

1. Storage tank systems equipped with cathodic protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year, or every three years for factory-installed (galvanic) cathodic protection systems, thereafter in accordance with the criteria contained in NACE International Standards SP0169-2007 and SP0285-2011, **or STI R051-06 Cathodic Protection Testing Procedures for sti-P3 UST's (R051)**, as applicable. All cathodic protection systems shall either have permanent test stations for soil-to-structure potential measurements or use temporary field test stations for required testing in accordance with this subparagraph.

(Recommend adding STI R051 as an additional test method for testing sti-P3 tanks. Steel Tank Institute has performed over 100,000 tests on sti-3 tanks. STI was instrumental in revising NACE tank cathodic protection testing procedures for underground storage tanks, especially tanks with galvanic anodes. The STI R051 needs to be referenced.)

2. Storage tank systems with impressed current systems shall be inspected at intervals not exceeding two months. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 1440 hours in one year shall be immediately taken out-of-service and within 30 days, and assessed by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria.

(c) Records of the continuous operation of impressed current systems and all cathodic protection inspection, testing, and repair activities shall be maintained in accordance with paragraph 62-761.710(3)(c), F.A.C.

(d) Storage tank systems with cathodic protection systems that have been determined by a Corrosion Professional that the cathodic protection system cannot achieve or maintain protection levels in accordance with the design criteria shall:

1. Be repaired within **90** ~~30~~ days in accordance with subparagraph 62-761.700(2)(b)1., F.A.C., or
2. Be closed in accordance with subsection 62-761.800(2), F.A.C.

(A corrosion professional generally doesn't review test reports. A cp tester alone will test and pass/fail a system. 30 days is not adequate time to have a system repaired. 90 days is more appropriate.)

(3) **Vapor Corrosion Inhibitors**

(a) **Vapor Corrosion Inhibitor systems shall be operated and maintained to provide continuous corrosion protection to the metal surfaces within the interstitial spaces of storage tanks and piping. Vapor Corrosion Inhibitors can also be used for corrosion control for the ullage of USTs or other enclosed spaces.**

(b) **Inspection and testing requirements.**

1. **Storage tank systems equipped with VCI protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year thereafter. All VCI protection systems shall have permanent test stations with at least one electrical resistance probe to measure corrosion rates, or a method of monitoring to allow for a determination of VCI effectiveness and to monitor current operating**



status of the VCI protection system.. If the data from the electrical resistance probes or from an alternate method or source of data evaluated by a Corrosion Professional indicate that the vapor corrosion inhibitors have been depleted and can no longer provide the design capacity to protect the targeted metallic surfaces for the designed time period, the Corrosion Professional shall direct the replenishment or replacement of the depleted vapor corrosion inhibitors with a new quantity of vapor corrosion inhibitors.

2. . Systems using vapor corrosion inhibitor technology must be tested in accordance with manufacturers instructions.

(c) Records of the continuous operation of VCI systems and all inspection, testing, and repair activities shall be maintained in accordance with paragraph 62-762.711(3)(b), F.A.C

(d) Storage tank systems with VCI protection systems that have been determined by a Corrosion Professional that the VCI system requires replenishing shall:

1. Be replenished or replaced within 90 days in and be retested within 90 days from the date of replenishment; or

2. Be closed in accordance with subsection 62-762.801(2), F.A.C.

(All proposed revisions in this sub-section are to provide the option of using vapor corrosion inhibitor technologies that perform a similar function to cathodic protection by using a different approved technology. For USTs, VCI's can be used in piping sumps, metallic interstitial spaces, and the ullage of metallic double-wall USTs)

(3) Operation and maintenance.

(a) Integrity testing.

1. The integrity of ~~the~~ secondary containment ~~systems~~ and interstitial spaces ~~of small diameter piping installed after the effective date of the rule~~ shall be verified by performing an interstitial or containment integrity test in accordance with manufacturer's specifications or PEI/RP1200-12. ~~The integrity of containment sumps with capacities less than 500 gallons that are installed after the effective date of the rule shall be verified by performing a containment integrity test. Small diameter piping installed after the effective date of the rule~~ ~~Secondary containment systems~~ that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection are exempt from this requirement. The interstitial or containment integrity tests shall be performed by January 1, 2020, and every five years thereafter. The interstitial spaces of double-wall underground tanks and single ~~in accordance with the following schedule:~~

- ~~a. Double-walled storage tanks shall be tested by January 1, 2015, and every five years thereafter;~~
- ~~b. The interstice of double-walled integral piping by January 1, 2015, and every five years thereafter;~~
- ~~c. Below-grade piping sumps by January 1, 2015, and every five years thereafter;~~
- ~~d. Below-grade dispenser sumps by January 1, 2015, and every five years thereafter;~~
- ~~e. Double-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter;~~
- ~~f. Single-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter; and~~
- ~~g. Single-walled storage tanks or integral piping installed within liners are exempt from this requirement.~~

(This requirement is an example of making a problem out of something that is not a problem, and that has limited value on USTs. Integrity testing of USTs is often inducing leaks and damaging storage tank systems with great additional risk for regulatory-induced discharges. Double-wall underground tanks and piping usually have very small interstitial spaces that are very susceptible to damage from over pressure or vacuum. Additionally, these systems are not designed to have periodic interstitial integrity tests, and the depth or presence of groundwater is not always factored in to the testing parameters by the B.O.I testing company. If an area has a high ground water table, the added weight of the water over the tank could and has caused the failure of the interstitial space if the additional pressure is not accounted for. It is recommended that integrity testing be performed only at installation for small diameter piping and system containment components installed after the effective date of the rule, and that the facility rely on the presence of liquids in the interstice for release detection. This would enable manufacturers to properly design for the testing of the piping. Given the FDEP Leak Autopsy study data that shows piping as a significant risk and problem for releases, it makes sense to limit B.O.I.'s to piping and



not include USTs. There is no cost-benefit to this onerous requirement, and the risk of causing new leaks is not worth the requirement for breach of integrity testing. Also, the Department has no data showing that double-wall USTs are failing (except perhaps for after a B.O.I.)

2. If using hydrostatic testing for the interstitial or containment integrity test, it shall be performed by filling the secondary containment system with water to a marked level four inches above the highest penetration of the side wall of the containment equipment, with the exception of spill containment systems which shall be filled to a level within 1.5 inches of the top of the bucket. The secondary containment system shall be deemed tight if the water level remains stationary for a three hour period.

3. Any integrity test that indicates that the component is not tight shall be reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(b) Water removal.

1. Spill containment systems, interstitial spaces, dispenser sumps, and piping sumps shall be maintained to provide access for examination and water removal. Water in excess of one inch in depth, **or water levels above the lowest side-wall penetration of a below-ground containment sump,** or any regulated substance collected in secondary containment, spill containment systems, or in piping sumps and dispenser sumps shall be removed within 72 hours of discovery and be either reused or properly disposed.

(This addition confirms inspector policy of ignoring water in a sump that does not adversely affect the ability of the release detection to work.)

2. Petroleum Contact Water. Petroleum contact water from storage tank systems shall be managed in accordance with Chapter 62-740, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 3-12-91, Formerly 17-761.700, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.710 Recordkeeping.

(1) All records shall be dated, maintained in permanent form, and available for inspection by the Department or County. If records are not kept at the facility, they shall be made available at the facility or another agreed upon location upon five working days of the Department's request notice. Site access to the facility shall be provided for compliance inspections conducted at reasonable times.

(2) Records of the following are required to be kept for **three** ~~five~~ ~~two~~ years:

(Three years synchronizes with the three year inspection schedule of the Department and the Energy Act of 2005)

(a) ~~Measurements and reconciliations of inventory, as applicable;~~

(b) ~~Repair, operation, and maintenance records;~~

~~(b)(c) All release detection results, including electronic test results, regardless of the frequency, and monthly visual inspections performed in accordance with paragraph 62-761.600(1)(e) 62-761.640(2)(e), F.A.C. The presence of a regulated substance's odor, sheen, or free product shall be recorded for each sampling event;~~

~~(c)(d) All test data and results gathered during annual operability tests and integrity tests Release detection response level descriptions; and~~

~~(d)(e) A copy of all test data and results gathered during tightness tests, pressure tests, and breach of integrity tests, and the name and type of the test approved under Rule 62-761.850, F.A.C.;~~

~~(f) Certification of Financial Responsibility on Form 62-761.900(3);~~

~~(g) Records of the types of fuels stored per tank; and~~

~~(h) The repair or replacement of gaskets, valve packings, valves, flanges, and connection/disconnection fittings for bulk product piping if the repair or replacement is performed in response to a discharge or loss of regulated substances.~~

(3) Records of the following, generated after July 13, 1998, shall be maintained until for the life of the storage tank system closure:

(a) Manufacturer's instructions for operation, maintenance, and testing for release detection equipment Results of internal inspections and non-destructive testing;

(b) Any performance claims for release detection equipment described in writing by the equipment



manufacturer or installer;

(e) Records of storage tank system installations, replacements, recertifications, and upgrades;

~~(c)(d)~~ Records of installation, maintenance, inspections, and testing of cathodic protection systems in accordance with NACE standards;

(d) Records of installation, maintenance, inspections, and testing of vapor corrosion inhibitor protection systems in accordance with Corrosion Professional recommendations;

(Includes requirements needed to demonstrate the effectiveness of the corrosion control provided by the vci technology)

~~(d)(e)~~ Record drawings (“as-builts”) as specified in paragraph 62-761.500(1)(h), F.A.C. ~~Site suitability determinations in accordance with subsection 62-761.640(2), F.A.C.;~~

~~(e)(f)~~ A copy of all INFs, and the results of all incident investigations as specified in Rule 62-761.430, F.A.C. Vapor monitoring plans and all records kept pursuant to the plan;

~~(f)(g)~~ A copy of all DRFs Closure assessment reports if the location continues as a facility; and

~~(g)(h)~~ A copy of all Closure Reports, as referenced in paragraph 62-761.210(2)(c), F.A.C., if the location continues as a facility. Verification from a Certified Contractor of the existence of a single check valve beneath the suction pump for suction piping systems.

(4) Records to demonstrate financial responsibility shall be maintained until storage tank system closure.

Rulemaking Specific Authority 376.303, 376.322(3) FS. Law Implemented 376.303, 376.322 FS. History—New 12-10-90, Formerly 17-761.710, Amended 9-30-96, 7-13-98, ~~Repromulgated~~ 6-21-04, _____.

62-761.800 Out-of-Service and Closure Requirements.

(1) Out-of-service storage tank systems.

(a) General.

1. Storage tank systems that are taken out-of-service, as required in this subsection as defined in subsection 62-761.200(40), F.A.C., shall continue to be maintained in accordance with this Chapter unless otherwise noted herein.

2. Facility owners and operators of out-of-service storage tank systems shall:

a. Continue to operate and maintain corrosion protection in accordance with subsection paragraph 62-761.700(2)(1)(b), F.A.C.;

b. ~~Perform external release detection for sites without contamination, as applicable, every six months in accordance with provisions of subsection 62-761.640(2), F.A.C.;~~

~~c. Leave vent lines open and functioning;~~

~~cd. Remove all regulated substances so that no more than one inch in depth~~ **or 0.3 percent by weight of regulated substances remains in the storage tank** ~~Empty the system and cap or secure all lines, pumps, manways, and ancillary equipment, as applicable; and~~

~~de. Secure or close off the system to outside access.~~

(Current rule is not a problem, and 0.3 is in the current rule)

32. Facility owners and operators of out-of-service storage tank systems shall monitor the interstice and the liquid level in the storage tank annually ~~but not to exceed 12 months~~. Records of these inspections shall be maintained in accordance with subsection 62-761.710(2), F.A.C. In the event that liquid in excess of one inch in the storage tank or any liquid in the interstice is discovered, **facility owners and operators must follow the procedures for suspected incidents an INF must be submitted in writing or electronic format and an investigation as to the cause performed** pursuant to Rule 62-761.430, F.A.C. If the storage tank system is required to be upgraded during the time that it is out of service, it shall be upgraded or replaced in accordance with this chapter before it is returned to service.

(Department’s proposed language compels an INF, while the suggested revision requires following procedures for suspected incidents. It’s not an incident until after the investigation)

43. Release detection device annual operability testing, containment and ~~interstitial~~ integrity testing, and



annual overfill protection device testing are not required while the system is properly out-of-service. All aforementioned testing shall be up-to-date in accordance with this Chapter and indicate proper operation before adding regulated substances to the storage tank system. In addition, storage tank systems ***installed after the effective date of the rule*** that have been out-of-service for more than ***two years~~365 days~~*** shall perform interstitial integrity testing of the storage tank and ***small diameter*** integral piping before adding regulated substances to the storage tank system. ~~Systems with secondary containment installed and operated in accordance with this chapter may remain in a continuous out of service status for ten years. After this period, the system shall be returned to service or closed in accordance with subsection 62-761.800(2), F.A.C.~~

(This requirement for interstitial integrity testing should be eliminated for existing systems, but if the tank has been out of service for two years without monthly release detection then a B.O.I. could be performed for tanks and piping installed after the effective date of the rule that have been properly designed to have safe interstitial integrity testing.)

54. Storage tank systems with secondary containment shall only be designated as out-of-service for a maximum of ten continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with subsection 62-761.800(2), F.A.C. Tightness, pressure, or other tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., as applicable, on any systems being returned to service.

(b) Before being returned to service, the following tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., for systems that are taken out of service for more than 180 days:

1. ~~A tightness test for single-walled systems; or~~
2. ~~A breach of integrity test for double-walled Category C systems.~~

(c) ~~Single-walled systems that are taken out of service shall not be kept out of service longer than two years for corrosion-protected systems or one year for unprotected bare steel systems. After the end of these time periods, the systems shall either be upgraded or permanently closed.~~

(2) Closure of storage tank systems.

(a) The following storage tank systems must be closed within 90 days in accordance with the provisions of this subsection:~~General.~~

1. A storage tank system that is out-of-service or has not had regulated substances added to or withdrawn from the system for more than ~~Closure of storage tank systems shall be performed by:~~

- a. Two years for single-walled storage tank systems; or ~~Removing all liquids and accumulated sludges;~~
- b. Ten years for storage tank systems with secondary containment. ~~Disconnecting and capping, or removing, all integral piping. Manways shall be secured to prevent access;~~
- c. ~~Closing the storage tank system in accordance with paragraphs 62-761.800(2)(b), F.A.C., as applicable; and~~
- d. ~~Conducting a closure assessment in accordance with subsection 62-761.800(3), F.A.C.~~

2. A storage tank system that fails to meet the requirements of Rule 62-761.500, F.A.C. After closure, storage tank systems may be used to store materials or substances other than regulated substances in accordance with all applicable Department reference standards, (for example, API 1604). Owners and operators are advised that other federal, state, or local requirements may apply to these activities.

3. A storage tank system that requires repair pursuant to Rule 62-761.700, F.A.C., but cannot be repaired to operate in accordance with the requirements of this Chapter. Monitoring wells associated with closed systems that are not being used for release detection or site assessment purposes shall be closed in accordance with paragraph 62-761.600(1)(k), F.A.C.

(b) Closure of storage tank systems shall be performed by: ~~Unmaintained systems shall be permanently closed within 90 days of discovery.~~

(c) ~~System removal, closure in place, and disposal shall be performed:~~

1. Properly closing monitoring wells associated with closed systems that are not being used for site assessment purposes; In accordance with API RP 1604 and NFPA 30; and

2. Removing or disconnecting and capping all integral piping; By a Certified Contractor if the system is removed from the ground, unless it is closed in place by filling it with a solid inert material of sufficient density to prevent a structural collapse of the closed system.

3. Removing and disposing of a storage tank by a Certified Contractor, or in-place closure by filling the storage tank with a solid inert material of sufficient density to prevent a structural collapse of the closed storage tank, which shall be in accordance with the following documents hereby adopted and incorporated by reference, and available from the addresses given. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996, American Petroleum Institute, Published by API Publications and Distribution,



1220 L Street, N.W. Washington, D.C. 20005-4070, and Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C). In lieu of in-place closure or removal, a storage tank may be used to store liquids other than regulated substances in accordance with API RP 1604. Owners and operators are advised that other federal, state, or local requirements apply that regulate these activities; and

4. Conducting a Closure Evaluation and preparing a Closure Report, as referenced in paragraph 62-761.210(2)(c), F.A.C., in accordance with subsection 62-761.800(3), F.A.C.

(c) The removal and disposal of all liquids and accumulated sludges may be required according to other local, state, and federal requirements.

(3) Closure Report and Evaluation Requirements, as referenced in paragraph 62-761.210(2)(c), F.A.C. Closure assessment of storage tank systems.

(a) Closure Report At time of closure, replacement, installation of secondary containment, or change in service from a regulated substance to a non-regulated substance, an assessment shall be performed to determine if a discharge from the system or system components has occurred.

1. A Closure Report is always required and shall be completed in accordance with the Department's "Storage Tank System Closure Guidelines - Closure Evaluation Guidance," specified in paragraph 62-761.210(2)(c), F.A.C., at the time of closure, replacement, installation of secondary containment, repairs performed because of an operational or structural problem that could potentially result in a release, or change in service from a regulated substance to a non-regulated substance for tanks, integral piping, and other system components in contact with the soil if a Site Rehabilitation Completion Order (SRCO) or a Monitoring Only Plan (MOP) Approval Order has been issued by the Department for a contaminated area of a site, a closure assessment shall be performed for any subsequent storage tank system removal, replacement, or installation of secondary containment.

2. A Closure Report (including a Closure Evaluation, as required), shall be submitted in writing or electronic format to the County within 60 days of completion of any of the activities listed in subparagraph 62-761.800(3)(a)1., F.A.C. Tanks, pipes, or other system components in contact with soil at any site are subject to closure assessment requirements.

(b) Closure Evaluation. In addition to a Closure Report, all storage tank systems in contact with the soil must perform a Closure Evaluation according to the Department's "Storage Tank System Closure Guidelines - Closure Evaluation Guidance" specified in paragraph 62-761.210(2)(c), F.A.C. A closure assessment is not required for:

1. Sites with documented contamination requiring a site assessment in accordance with Chapter 62-770, F.A.C., including those that are eligible for the Early Detection Incentive Program (EDI), the Florida Petroleum Liability and Restoration Insurance Program (FPLRIP), and the Petroleum Cleanup Participation Program (PCPP), pursuant to Sections 376.3071 and 376.3072, F.S. Nevertheless, documentation of procedures followed and results obtained during closure shall be reported in a Limited Closure Summary Report, Form 62-761.900(8), and in accordance with Section A of DEP's "Storage Tank System Closure Assessment Requirements";

2. Systems initially installed with secondary containment, provided that no unexplained positive response of an interstitial release detection device or method occurred during the operational life of the system, or the secondary containment passed a breach of integrity test prior to closure; and

3. Systems upgraded with secondary containment that have closed interstitial spaces, where a closure assessment was performed prior to installation of secondary containment, provided that the secondary containment passed a breach of integrity test in accordance with paragraph 62-761.640(3)(a), F.A.C.;

(c) Closure assessment sampling and analysis shall be conducted according to DEP's "Storage Tank System Closure Assessment Requirements."

(d) A closure assessment report shall be submitted to the County within 60 days of completion of any of the activities listed in paragraph 62-761.800(3)(a), F.A.C. The report shall include sample types, sample locations and measurement methods, a site map, methods of maintaining quality assurance and quality control, and any analytical results obtained during the assessment in accordance with DEP's "Storage Tank System Closure Assessment Requirements."

(e) Persons are advised that contaminated soil excavated, disposed of, or stockpiled on site during the closure of a storage tank system is regulated by Chapter 62-770, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.30716 FS. History--New 12-10-90, Formerly 17-761.800, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.820 Incident and Discharge Response.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-



761.820, Amended 9-30-96, 7-13-98, 6-21-04, Repealed.

62-761.850 Alternative Procedures Requirements and Equipment Registration Approvals.

(1) Alternative procedure requirements.

(a) Any person subject to the provisions of this Chapter may request in writing a determination by the Secretary or the Secretary's designee that any requirement of this Chapter shall not apply to a regulated storage tank system at a facility, and shall request approval of alternative ~~alternate~~ procedures or requirements.

(b) On Form 62-761.900(4), Alternative Requirement or Procedure Form, effective date, *(the effective date of the rule)*, hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>, the request shall set forth at a minimum the following information:

1. The specific storage tank system or facility for which an exception is sought;
2. The specific provisions of this Chapter 62-761, F.A.C., from which an exception is sought;
3. The basis for the exception;
4. The alternative procedure or requirement for which approval is sought;
5. Documentation that demonstrates that the alternative procedure or requirement provides an equivalent or greater degree of protection for the lands, surface waters or groundwaters of the State as the specific provisions of this Chapter from which an alternative procedure is sought ~~established requirement~~; and
6. Documentation that demonstrates that the alternative procedure or requirement is at least as effective as the established procedure or requirement.
7. If an alternative ~~alternate~~ procedure or requirement is not able to be sought under subparagraph 5. or 6., then documentation that demonstrates that the specific provisions of this Chapter from which the exception is sought imposes regulatory costs on the regulated entity that could be reduced through approval of a less costly regulatory alternative or requirement that provides a substantially equivalent degree of protection for the lands, surface waters, or groundwaters of the State as the established requirement.

(c) The Department shall issue an Order either: Within 60 days of the receipt of a request for approval of an alternative procedure or requirement, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(1), F.A.C., are met.

1. Approving the request with any conditions necessary to meet the requirements of paragraph 62-761.850(1)(b), F.A.C.; or

2. Denying the request and stating the reason(s) the request does not make an adequate demonstration that the requirements of paragraph 62-761.850(1)(b), F.A.C., have been met.

(d) ~~The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S. The Secretary or the Secretary's designee shall specify by order each alternative procedure or requirement approved for an individual storage tank system or facility in accordance with this rule or shall issue an order denying the request for such approval.~~

(e) The provisions of this Rule do not preclude the use of any other applicable relief provisions.

(2) Registration of storage tank system equipment and release detection systems and methods ~~Equipment approvals.~~

(a) Owners and operators shall verify at the time of installation that the storage tank system equipment and release detection systems and methods (including equipment and methods that were previously approved by the Department under the former Equipment Approval process) have been registered with the Department. ~~Storage tank system equipment used in the State of Florida must have the approval of the Department before installation or use, with the exception of:~~

(b) Any storage tank system equipment installed after *(the effective date of the rule)* must be registered with the Department in accordance with this section. Upon discovery, non-registered storage system equipment installed after *(the effective date of the rule)* must be removed within 90 days, unless registration is obtained and listed within the 90 day time period.

(c) Equipment previously approved by the Department under the former Equipment Approval process and installed prior to *(the effective date of the rule)* can continue to be used regardless of later non-renewal or removal of registration from the list of registered storage tank system equipment, provided the equipment is still operating as designed.

(d) Only the storage tank system equipment as stated in this Chapter shall be registered by the equipment manufacturer using Form 62-761.900(3) Storage Tank System Equipment Registration Form, effective date, *(the*



effective date of the rule), hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>. The following storage tank system equipment is exempt from registration:

1. Dispensers, dispenser islands, nozzles, and hoses;
2. ~~Monitoring well bailers;~~
3. Manhole and fillbox covers;
34. Valves and ball float valves;
45. Cathodic protection test stations;
6. ~~Metallic bulk product piping;~~
57. Small diameter integral piping not in contact with soil, unless the integral piping extends over or into surface waters; and
68. Vent lines.

7. Gauges used for vacuum and pressure monitoring

(e)(b) ~~Registration Equipment approval~~ requests shall be submitted to the Department in writing or electronic format with a demonstration that the equipment will ~~provide equivalent protection or~~ meet the appropriate performance ~~requirements standards~~ contained in this Chapter. Any approvals or denials received from other states **or countries** shall be included in the registration approval request to the Department.

(f)(e) A third-party demonstration by a Nationally Recognized Testing Laboratory shall be submitted in writing or electronic format to the Department with the application. The third-party demonstration shall provide:

1. A technical evaluation of the equipment;
2. Test results that verify that the equipment will function as designed; and
3. A professional certification or determination that the equipment meets the performance ~~requirements standards~~ contained in this Chapter; Rule 62-761.500, F.A.C.
4. Integrity test requirements and procedures; and
5. Annual operability testing procedure for the equipment or release detection system or method.

(g)(d) ~~Release detection methods and tank and piping tightness and pressure testing methods must be registered in accordance with this subsection and be listed with the National Work Group On Leak Detection Evaluations, <http://www.nwglde.org/>, prior to being used. Within 60 days of the receipt of a request for an equipment approval, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(2), F.A.C., are met.~~

(h)(e) The storage tank system equipment and release detection systems and methods registered with the Department under this subsection must be renewed every five years. Failure to renew will result in removal from the equipment registration list. Any changes, improvements, or modifications to equipment beyond the scope of the original demonstration by the Nationally Recognized Testing Laboratory will require a renewal of the registration and a new demonstration from a Nationally Recognized Testing Laboratory pursuant to paragraph 62-761.850(2)(f), F.A.C. The Secretary or the Secretary's designee shall specify by order each equipment approval that is approved in accordance with this rule or shall issue an order denying the request for such approval. The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S.

(i) The Department shall place conditions upon the use of the storage tank system equipment and release detection systems and methods, remove equipment or methods from the list of registered storage tank system equipment, or not renew registration based on the information submitted to the Department in accordance with this subsection or if the equipment does not perform in field application as certified in the third party certification by a Nationally Recognized Testing Laboratory.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.850, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.900 Storage Tank Forms.

The forms used by the Department in the Storage Tank System Program are adopted and incorporated by reference in this section. The forms are listed by form rule number, ~~which is also the form number, and with the subject title,~~ and effective date. Copies of forms are available ~~may be obtained~~ by writing to the ~~Administrator,~~ Storage Tank Regulation Section, Florida Department of Environmental Protection, Division of Waste Management, 2600 Blair Stone Road, M.S. 4500 ~~4525~~, Tallahassee, Florida 32399-2400, or at or online at:



www.flrules.org/Gateway/reference.asp?No=Ref-000### or
<http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

- (1) Form 62-761.900(1) Discharge Report Form, *(the effective date of the rule)* ~~July 13, 1998.~~
- (2) Form 62-761.900(2) Storage Tank Facility Registration Form, *(the effective date of the rule)* ~~July 13, 1998.~~
- (3) Form 62-761.900(3) Storage Tank System Equipment Registration Form, *(the effective date of the rule)* ~~Certification of Financial Responsibility, July 13, 1998.~~
- (4) Form 62-761.900(4) Alternative Requirement or Procedure Form, *(the effective date of the rule)* ~~July 13, 1998.~~
- (5) Form 62-761.900(5) Underground Storage Tank Installation and Removal Form for Certified Contractors, *(the effective date of the rule)* ~~July 13, 1998.~~
- (6) Form 62-761.900(6) Incident Notification Form, *(the effective date of the rule)* ~~July 13, 1998.~~
- (7) ~~Monthly Statistical Inventory Reconciliation (SIR) Report, July 13, 1998.~~
- (8) ~~Limited Closure Summary Report Form, July 13, 1998.~~

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.900, Amended 9-30-9698, 7-13-98, ~~Repromulgated 6-21-04,~~_____.



CHAPTER 62-761 UNDERGROUND STORAGE TANK SYSTEMS

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62-761.900	Storage Tank Forms

62-761.100 Intent.

(1) The purpose of this Chapter is to provide requirements standards for the registration, construction, installation, operation, maintenance, repair, closure, and disposal of underground storage tank systems that store regulated substances, in order and to minimize the occurrence and environmental risks of releases and discharges. This Chapter provides requirements standards for underground storage tank systems having individual storage tank capacities greater than 110 gallons.

(2) No change.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.100, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.200 Definitions.

All words and phrases defined in Sections 376.301 and 376.79, F.S., shall have the same meaning when used in this chapter unless specifically stated otherwise in this chapter. See Sections 376.301 and 376.79, F.S., for definitions of the following terms: “Contaminant (contamination shall mean the same as contaminant),” **Contaminated** ~~Contaminated~~ site,” “Department,” “Discharge,” “Facility,” “Hazardous substances,” “Operator,” “Owner,” and “Pollutants.” The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings: ~~The following words, phrases or terms used in this chapter, unless the context indicates otherwise, shall have the following meaning:~~

(Typo)

(1) No change

(2) “Biofuel” means fuel produced from renewable resources, especially plant biomass, vegetable oils, and treated municipal and industrial wastes. ~~“AST” means an aboveground storage tank.~~

(3) “Bulk product piping” means on-site integral piping with an internal diameter greater than three inches that is utilized for transporting regulated substances.

~~(3)(4)~~ “Cathodic protection” means a method of preventing corrosion of a metal surface by making that surface the cathode of an electrochemical cell through the use of devices such as galvanic anodes or impressed current.



(5) “Cathodic Protection Tester” means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

(This definition should remain because the testing of cathodic protection systems, and in particular galvanic anode cathodic protection systems, do not require that same level of certification. Testers go in the field to verify adequate cathodic protection exists on a tank or pipe, but they do not design systems or perform retrofit. Their services are needed along with the definition to spell out the differences in responsibilities. Further, in 2006, the STI suggested that FDEP reference the STI Certification program for cathodic protection testers as an alternate to the NACE program. A number of States have adopted the STI Certification program specifically within their regulations. STI has certified approximately 475 testers throughout the country.

(4)(6) “Certified Contractor” means a Pollutant Storage System Contractor certified by the Department of Business and Professional Regulation in accordance with Chapter 489, F.S. *Except for the exemptions specified in Chapter 489, F.S., Certified Contractors are not required for activities that do not involve excavating or disturbing the backfill around UST systems. Certified Contractors are the only contractors authorized to perform the following activities for underground pollutant storage tank systems:*

(a) Installation of:

1. USTs or integral piping, excluding drop tubes;

2. Overfill protection and spill containment;

3. Secondary containment;

4. Internal release detection devices;

5. Cathodic protection systems; and

6. Dispenser liners when the integral piping is connected or disconnected during the installation of secondary containment.

(b) Removal of tanks or integral piping; and

(c) Internal lining of tanks.

(Recommend leaving this clarifying language in for the benefit of regulated interests)

(5) “Certified Contractors Form” means Underground Storage Tank Installation and Removal Form for Certified Contractors 62-761.900(5).

(6)(7) “Chlorine” includes organic and inorganic compounds that are liquids at standard temperature and pressure that, when discharged, may release free chlorine (Cl₂) or chlorides (Cl⁻).

(7) “Closure Evaluation” means the investigation at the time of closure, replacement, installation of secondary containment, repairs performed because of an operational or structural problem that could potentially result in a release, or change in service from a regulated substance to a non-regulated substance for tanks, integral piping, and other system components that are in contact with the soil to determine if there has been a discharge.

(8) “Closure Report” is a document that contains the Closure Evaluation, as applicable, and a description of the closure activities and the condition and integrity of the storage tank system or storage tank system component at the time of closure, replacement, installation of secondary containment, ~~repairs performed because of an operational or structural problem that could potentially result in a release,~~ or change in service from a regulated substance to a non-regulated substance for tanks, integral piping, and other system components that are in contact with the soil.

(Language is too vague and could be misinterpreted by inspectors. Repairs usually have nothing to do with closure. If you are going to repair equipment, you intend to keep it. If it can't be repaired, then closure may be necessary. Recommend striking the reference to repairs in the definition because of the potential of inclusion of minor repairs and the additional cost. The environment will be protected through the definition of “discovery” if a release occurs during a repair.)

(9)(8) “Compatible” means the ability of two or more substances to maintain their respective physical and



chemical properties upon contact with one another for the design life of the storage tank system under conditions likely to be encountered in the storage tank system.

(9) “Contamination” or “contaminated” means the presence of regulated substances in surface water, groundwater, soil, sediment, or upon the land, in quantities result in exceedances of applicable cleanup target levels specified in Chapter 62-770, F.A.C., where petroleum or petroleum products are present, or water quality standards in Chapter 62-3, 62-302, or 62-550, F.A.C.

(10) “Corrosion Professional” means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal components of a storage tank system. Corrosion Professionals shall be accredited or certified by NACE International as a Cathodic Protection Specialist or Corrosion Specialist, or be a professional engineer licensed registered in the State of Florida.

Corrosion Professionals using vapor corrosion inhibitor technologies for corrosion control must have experience with and knowledge of vapor corrosion inhibitors, and installation certification from the vapor corrosion inhibitor technology registered in accordance with Rule 62-762.851(2), F.A.C.

(Establishes criteria for Corrosion Professionals using this technology for corrosion control.)

(10a) “Corrosion Protection” means the minimization of corrosion by the use of cathodic protection or by the use of vapor corrosion inhibitors.

(Reason – provides that cathodic protection is not the only approved method of protecting metal surfaces from corrosion.)

(11) “County” means a locally administered program under contract with the Department to perform compliance verification activities at facilities with storage tank systems within the boundaries stipulated in the applicable contract.

~~(12)~~(13) “Day tank” means a storage tank system component in close proximity to an engine to provide a reliable supply of fuel.

(12) “Discharge” includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substance which occurs and which affects lands and the surface and ground waters of the state.

(13) “Discovery” means:

~~(a) Either actual knowledge or knowledge of facts that could reasonably lead to actual knowledge of the existence of an incident, release, or discharge, or an unmaintained storage tank system; or~~

~~(b) Discovery as specified in the Petroleum Contamination Site Cleanup Criteria subsection 62-770.200(10), F.A.C.~~

(14) “Dispenser” means a dispensing system that is used to transfer vehicular fuel from a fixed point to a vehicle.

(15) “Dispenser liner” means a liner installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(14) “Dispenser sump” means a storage tank system component installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

~~(15)~~(16) “Dispensing system” or “Dispenser” means equipment that is used to transfer regulated substances from integral piping through a rigid or flexible hose to a vehicle or portable container or pipe to another point of use outside of the storage tank system.

~~(16)~~(17) “Double-walled” means a storage tank system component that has an outer tank wall, or integral piping that has an outer wall that provides secondary containment of the primary tank or piping.

(17) “DRF” means Discharge Report Form 62-761.900(1).

(20) “Empty” means all regulated substances have been removed so that no more than one inch in depth or 0.3 percent by weight of total system capacity of regulated substances remains in the storage tank system.

(Recommend retention of this definition. It has not been a problem, and allows for



condensate and other “de-minimus” amounts of liquid in the tank.)

(19) “Existing contamination” means:

(a) The presence of free product or sheen on the groundwater;

(b) The presence of vapor levels in monitoring wells measured in accordance with DEP’s “Guidelines for Vapor Monitoring” or by a Flame Ionization Detector or an equivalent instrument in excess of:

1. 500 parts per million total petroleum hydrocarbons for storage tank systems containing gasoline or equivalent petroleum products; or

2. 50 parts per million total petroleum hydrocarbons for storage tank systems containing kerosene, diesel or other equivalent petroleum products;

(c) Results of analytical tests on a groundwater sample that:

1. Exceed the cleanup target levels for petroleum products’ contaminants of concern specified in Table I of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

(d) After July 13, 1998, results of analytical tests on a soil sample that:

1. Exceed the lower of direct exposure residential and leachability based on groundwater criteria cleanup target levels for petroleum products’ contaminants of concern specified in Table II of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above.

(20) “Facility” means a nonresidential location containing, or that contained, any stationary tank or tanks containing, or that contained regulated substances, and that have, or had, individual capacities greater than 110 gallons for UST systems.

(18)(24) “Free product” means the presence of nonaqueous phase liquid in the environment a regulated substance in excess of 0.01 foot in thickness, measured at its thickest point, floating on water, surface water or groundwater.

(22) “Hazardous substances” means those substances defined as hazardous substances in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(33) “Heating oil” means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces.

(Recommend retention of the definition of “Heating Oil” to avoid confusion to regulated interests. Not a problem now.)

(24) “High viscosity” means a pollutant with a viscosity of 30 centistokes (cSt) and higher at 40 degrees Centigrade.

(25) “Hydraulic lift tank” means a tank that holds hydraulic fluid for a closed-loop mechanical system used to operate lifts, elevators, and other similar devices.

(19)(26) “Hydrostatic test” means a containment integrity test for a storage tank or storage tank system component that is performed in accordance with this Chapter using equilibrium and the pressure of liquids to test the integrity of the tank or system component.

(20)(27) “Impervious” means:

(a) a synthetic material or another material registered in accordance with subsection 62-761.850(2), F.A.C., that is compatible with the stored regulated substance, and has a permeability rate to the regulated substance stored of 1×10^{-7} cm/sec or less; or

(b) For concrete structures, a material that:

1. Meets the design and construction standards of ACI 350R-89 and ACI 224R-89; or

2. Is applied to the concrete in accordance with NACE International Standard RP0892-92

(21)(28) “In contact with the soil” means any portion of a storage tank system, that physically touches the soil



or, if not in direct contact with the soil, is separated from the soil only by a casing, wrapping, or other material that is not impervious, integral piping connected to USTs, or any portion of a tank, that:

- (a) ~~Physically touches the soil; or~~
- (b) ~~Is not in direct contact with the soil, and is separated from the soil only by a casing, wrapping, or other material that is not impervious.~~
- (c) ~~Those portions of integral piping that are elevated and that are not in direct contact with the soil are excluded from this definition.~~

(22)(29) “Incident” is a condition or situation indicating that a release or discharge may have occurred from a storage tank system.

(23) “INF” means Incident Notification Form 62-761.900(6).

(24)(30) “In-service” means a storage tank system that is being actively operated and that contains greater than one inch or 0.3% by weight of regulated substance, ~~is being actively maintained and operated in accordance with this Chapter. Non-compliance with any specific rule within this Chapter does not exclude the system from being considered “in-service.”~~ Subject to the above, a storage tank system is also considered to be in-service if it:

- (a) ~~Contains regulated substances or has regulated substances regularly added to or withdrawn from the system;~~
- (b) ~~Is emptied solely for the purpose of cleaning, routine maintenance, or a change in product, for a time period not exceeding 45 days; or~~
- (c) ~~Contains non-regulated substances and is still maintained in an in-service status at the request of the owner or operator.~~

(The 0.3% by weight requirement is not a current problem. Safeguards are being proposed in the notification section of the rule that would prevent owners from excessive reporting or notification for routine temporary out-of-service notifications to the Department.)

(25)(31) “Integral piping” means on-site piping, originating or terminating at the regulated storage tank or tanks, that conveys regulated substances. Integral piping, not including vapor recovery lines and vent lines, includes all valves, elbows, joints, flanges, pumps, and flexible connectors, up to the:

- (a) Union of the piping with the dispensing system;
- (b) Fill cap or fill valve; or
- (c) Forwarding pump used for transferring regulated substances to a flow-through process tank or an industrial production or manufacturing point of use; ~~or~~
- (d) ~~First flange or connection within the loading rack containment area.~~

(The revision that excludes vapor recovery lines and vent lines is a good one and has full industry support)

(26) “Integrity test” means a determination of the liquid tightness of a storage tank system component using one of the following types of tests:

- (a) “Interstitial integrity test” means an evaluation of the interstitial space in a double-walled storage tank system component using vacuum, pressure, liquid level monitoring systems, or equivalent test methods certified by a Nationally Recognized Testing Laboratory; or
- (b) “Primary integrity test” means an evaluation of the liquid tightness of the primary tank or integral piping.
- (c) “Containment integrity test” means an evaluation of the liquid tightness of the hydrant pits, isolation valve pits, piping sumps, dispenser sumps, and spill containment systems.

(Adds additional systems used in the military for USTs. Most commercial hydrant systems are bulk product systems with field-erected ASTs.)

(32) “Internal lining” means a material that is applied internally on USTs to protect the tank from internal corrosion.

(27) “Interstice” means the space between the primary and secondary wall of a storage tank or storage tank system component.



(Clarification to ensure that people don't think that it only applies to components and not the tank or piping)

~~(28)(33)~~ “Interstitial monitoring” is a method of release detection in which the interstice is monitored. ~~release detection method that is used to determine the presence of regulated substances or water between the primary and secondary containment. Interstitial monitoring can be performed within:~~

~~(a) A closed interstitial space between two steel or impervious barriers that are sealed, not open to the atmosphere, and designed to be tested for a breach of integrity of the interstitial space; or~~

~~(b) An open interstitial space between two steel or impervious barriers that are open to the atmosphere, and not designed to be tested for a breach of integrity of the interstitial space.~~

~~(34) “Liner” means an impervious material that meets the performance standards of paragraph 62-761.500(1)(d), F.A.C., that is used externally as a method of secondary containment.~~

~~(29)(35)~~ “Maintenance” means the normal operational upkeep in accordance with Rule 62-761.700, F.A.C., to prevent a storage tank system from releasing or discharging regulated substances.

~~(30)(36)~~ “Nationally Recognized Testing Laboratory” means an international or national organization or governmental entity that can perform quantitative and qualitative tests on storage tank system equipment, evaluate the test data and equipment performance, and make determinations of the equipment’s capability of meeting the technical requirements standards of this Chapter. A Nationally Recognized Testing Laboratory shall have at least five years of professional storage tank system equipment testing experience. **Nationally Recognized Laboratories include organizations such as Underwriter’s Laboratories, Carnegie Mellon Research Institute, Southwest Research Institute, Midwest Research Institute, Ken Wilcox Associates, Factory Mutual, and American Board of Engineering and Technology (ABET) Accredited Universities.**

(Recommend retention of this language to help equipment manufacturers and other interested parties with obtaining services.)

~~(31)~~ “New” means a storage tank system or system component that is installed after the effective date of this Chapter.

~~(32)(37)~~ “On-site” means on the same or geographically contiguous property as the facility regulated under this Chapter, that is under the same ownership or control, and which may be divided by a public or private right-of-way or an easement.

~~(33)~~ “Operability test” means a test performed to determine if electronic and mechanical release detection and overfill protection devices or systems are functioning as designed and in accordance with manufacturers specifications.

~~(38)~~ “Operational life” refers to the period from the start of installation of the storage tank system to the completion of the closure of the storage tank system in accordance with subsection 62-761.800(2), F.A.C.

~~(39)~~ “Operator” means any person operating a facility, whether by lease, contract, or other form of agreement.

~~(34)(40)~~ “Out-of-service” means a storage tank system **meeting the requirements in subsection 62-761.800(1), F.A.C., that the owner and operator removes from active operations for an extended period of time that:**

(a) Is designated as an out-of-service system by owner or operator notification to the Department on Form 62-761.900(2);

(b) Is empty as defined in subsection 62-761.200(18), F.A.C.; and

(c) Does not have regulated substances transferred into or withdrawn from the tank as specified in subsection 62-761.800(1), F.A.C., for a maximum time of:

1. Two years of being taken out of service for USTs; or

2. Ten years of being taken out of service for storage tank systems with secondary containment.

(Recommend retention of the 2004 definition with minor changes. This has not been a significant problem, and the new definition really isn’t defined. It just says “meeting the requirements in subsection 62-761.800(1), F.A.C.”, which really is of marginal use to owners trying to comply. The amended version above is more descriptive and useful for all parties involved)

~~(34)(41)~~ “Overfill” is an incident ~~a release or discharge~~ that occurs when a tank is filled beyond its capacity.



(35) “Overfill protection” is a device or method for preventing an incident, release, or discharge from a storage tank during filling of the storage tank system.

(42) “Owner” means any person as defined in Section 376.301(23), F.S., owning a facility.

(36)(43) “Pesticides” mean any substance or mixture of substances, as defined in 487.201, F.S., intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the Department of Agriculture and Consumer Services by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term “pesticide” does not include any article that:

(a) Is a “new animal drug” within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act;

(b) Has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or

(c) Is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection. means all preparations, products, and substances included in the Department of Agriculture and Consumer Services’ Rule 5E 2.002, F.A.C.

(44) “Petroleum” includes:

(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and

(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph 62-761.200(44)(a), F.A.C.

(45) “Petroleum product” means any liquid fuel commodity made from petroleum.

(a) Forms of fuel considered to be petroleum products include all fuels known or sold as:

1. Diesel fuel;
2. Kerosene;
3. Gasoline; and
4. Fuels containing mixtures of gasoline and other products.

(b) Forms of fuel excluded from this definition are:

1. Liquefied petroleum gas;
2. American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils;
3. Bunker C residual oils;
4. Intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher;
5. Asphalt oils; and
6. Petrochemical feedstocks.

(37)(46) “Pipe” or “piping” means any hollow cylindrical or tubular conveyance through which regulated substances flow.

(38)(47) “Piping sump” or “Submersible turbine pump sump” means a storage tank system component liner installed as secondary containment or a monitoring port at the top of a tank or lowest point in the integral piping to detect releases.

(48) “Pollutants” includes any “product” as defined in Section 377.19(11), F.S., pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(49) “Pressure test” means a test to determine the integrity of integral piping performed in accordance with subparagraph 62-761.640(5)(a)1., F.A.C.

(39)(50) “Pressurized piping” means piping through which regulated substances flow due to a pump that is not located at the dispensing system.

(40)(51) “Product” as defined in Section 377.19(11), F.S., means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, used oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(Why is this statutory definition retained in the rule while all others have been deleted?)



(52) “Registered Precision Tank Tester” means a contractor that performs tightness tests on USTs, and small diameter piping connected to USTs, that is registered by the Department of Business and Professional Regulation pursuant to Chapter 489, F.S.

(41) “Registration form” means Storage Tank Facility Registration Form 62-761.900(2).

(42)(53) “Regulated substance” means a liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), that is a pollutant or a hazardous substance, or any mixture of the two, when stored in a storage tank UST.

(43)(54) “Release” means:

(a) ~~A discharge; or~~

(b) ~~a~~ A loss of regulated substances from a storage tank system into the system’s secondary containment.

(44)(55) “Release detection” means a method of:

(a) ~~Determining whether a discharge of regulated substances has occurred; or~~

(b) ~~d~~ Detecting the presence of regulated substances within a storage tank system’s secondary containment and/or detecting other conditions or situations indicative of a release or discharge.

(56) “Release detection response level” is the point of measurement, calculation, observation, or level that is established for each individual release detection device or method at which an investigation must be initiated to determine if an incident, release, or discharge has occurred.

(Eliminating this well intended but no longer useful RDRL requirement is a good thing!)

(45)(57) “Repair” means to restore or replace any defective or damaged parts of a storage tank system in accordance with Rule 62-761.700, F.A.C. ~~Replacement of a non-defective part is not a repair.~~

(46)(58) “Residential storage tank system” means a storage tank system that services a non-commercial building that is used exclusively as a dwelling unit which means a structure that is used as a home or residence by one or more persons who maintain a common household, excluding transient occupancies, is located on property used primarily for dwelling purposes, and the storage and use of regulated substances in the tank is for residential purposes.

(47)(59) “Secondary containment” means a release detection and discharge prevention system that meets the performance requirements standards of paragraph 62-761.500(1)(b), F.A.C., and includes dispenser sumps liners, piping sumps, spill containment systems, the outer wall of double-walled tanks and integral piping, or the liner systems, or single-walled tanks or piping systems that are contained within a liner or an impervious containment area surrounding single-walled tanks or integral piping.

(48)(60) “Sheen” means a regulated substance less than or equal to 0.01 foot in thickness, measured at its thickest point, or visibly observed, floating on surface water, groundwater, or within secondary containment.

(61) “Significant loss or gain” means the sum of losses and gains of a regulated substance over a 30-day or monthly period that exceeds:

(a) ~~For tanks with capacities between 111 and 2,000 gallons with an individual flow through less than 5,000 gallons during the previous 30 days:~~

1. ~~One percent of the tank capacity; or~~

2. ~~One percent of the total weekly output; or~~

3. ~~Fifty gallons, whichever is greatest; or~~

(b) ~~For tanks with capacities greater than 2000 gallons, or tanks with an individual flow through exceeding 5,000 gallons during the previous 30 days:~~

1. ~~One percent of the tank capacity; or~~

2. ~~One percent of the amount of product dispensed during the previous 30 days, plus 130 gallons, whichever is greatest.~~

(62) “Small diameter piping” means integral piping with an internal diameter of three inches or less that is utilized for transporting regulated substances.

(49) “Spill containment system” means a fixed component that is designed to prevent a discharge of regulated substances from the tank fill pipe.

(50)(63) “Storage tank system” means a tank used to contain regulated substances, its integral piping, and all its components, including dispensing systems, spill containment systems devices, overfill protection systems devices, secondary containment systems, day tanks, and any associated release detection equipment. A storage tank system is a “storage system” as defined in Chapter 376.301, F.S.

(51)(64) “Suction piping” means piping through which regulated substances flow due to a pump located at the



dispensing system.

~~(52)(65)~~ “Tank” means an enclosed stationary container or structure that is designed or used to store regulated substances, and the volume of which, including the volume of underground piping, is ten percent or more buried beneath the surface of the ground.

(66) “Tightness test” means a test for an underground storage tank or its small diameter piping that is performed in accordance with subparagraphs 62-761.640(3)(f)1. and (4)(b), F.A.C., by a precision tank tester registered with the Department of Business and Professional Regulation under Chapter 489, F.S.

(67) “UST” means an underground storage tank.

(68) “UST Category A system” means a system containing pollutants that was installed on or before June 30, 1992, or a system containing hazardous substances that was installed before January 1, 1991.

(69) “UST Category B system” means a system containing pollutants that was installed after June 30, 1992, or a system containing hazardous substances that was installed on or after January 1, 1991, and before July 13, 1998.

(70) “UST Category C system” means a system that was installed on or after July 13, 1998. USTs that are removed and relocated on or after July 13, 1998 are considered Category C systems.

(71) “Unmaintained” means:

(a) A storage tank system that was not closed in accordance with Department rules; or

(b) An out of service storage tank system that is not returned to in service status within:

1. Two years of its being out of service for USTs; or

2. Ten years of its being out of service for storage tank systems with secondary containment.

(72) “Upgrade” means the addition or retrofit of cathodic protection, internal lining, spill prevention, overfill protection, or secondary containment, to a storage tank system, or the installation of single wall corrosion resistant storage tanks, to improve the ability of the storage tank system to prevent discharges of regulated substances.

(xx) “Temporary out-of-service” is a designation of a service status for an underground storage tank system that is emptied solely for the purpose of cleaning, routine maintenance, microbial contamination, a “stop sale” order by DACS, or change of product for a time period exceeding seven days, but less than three months.

(Recommend inclusion of this status. Facility Owners have encountered problems with alternative fuels and bio-fuels, and it provides a convenient way of dealing with temporary down-time to clean tanks or perform routine maintenance without the paperwork or notification that adds costs without benefits. FDEP is protected by the three months limitation.)

(53) “Valid Registration” means that applicable registration requirements that are specified in Rule 62-761.400, F.A.C., have been met for all regulated storage tank systems at a facility.

(67) “Vapor Corrosion Inhibitor” (VCI) means a chemical substance that volatilizes from a liquid or solid through vapor pressure and then moves freely within an enclosed airspace where the molecules preferentially adsorb onto metal surfaces and create a protective layer that inhibits the corrosive action of water, oxygen, acid gas molecules, and other corrosive agents with the metal surfaces.

(Includes vapor-corrosion inhibitor technology)

(73) “Vehicular fuel” means a petroleum product used to fuel motor vehicles, including aircraft, watercraft, and vehicles used on and off roads and rails.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, 3-8-94, Formerly 17-761.200, Amended 9-30-96, 7-13-98, 6-21-04,_____.

Substantial rewording of Rule 62-761.210, F.A.C., follows. See Florida Administrative Code for present text.

62-761.210 Reference RequirementsStandards.

(1) Referenced requirements are available for inspection at the County Offices, and the Department of Environmental Protection’s District and Tallahassee Offices, and directly from the source.

(2) Titles of documents. References to documents listed in paragraphs 62-761.210(2)(a) through (l), F.A.C.,



below are made throughout this Chapter. Each document or part thereof is adopted and incorporated as a guideline only to the extent that it is specifically referenced in this Chapter. To the extent that the provisions contained in the following reference requirements conflict with this Chapter, the Department's requirements as stated in this Chapter shall control.

(a) American Petroleum Institute (API), 1220 L Street, N.W. Washington, D.C. 20005, (202) 682-8000, or at <http://www.api.org/>.

1. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996;

2. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011;

3. Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996; and

4. Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006.

(b) ASME International (founded as the American Society of Mechanical Engineers), 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800) 843-2763, or at <http://www.asme.org/>; Process Piping, B31.3-2004, 2012 Edition.

(c) Florida Department of Environmental Protection (DEP), Division of Waste Management, 2600 Blair Stone Road, MS 4500, Tallahassee, Florida 32399-2400, (850) 245-8839; Storage Tank System Closure Guidelines - Closure Evaluation Guidance, or at www.dep.state.fl.us/ (*effective date of the rule*).

(d) NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, (800) 797-6223, or at <http://www.nace.org/>:

1. Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition; and

2. Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition.

(e) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (800) 344-3555, or at www.nfpa.org/:

1. Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition;

2. Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C), 2012 Edition; and

3. Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition.

(f) National Leak Prevention Association (NLPA), Route 2 Box 106A, Falmouth, Kentucky 41040, (702) 832-2260, or at <http://www.nlpa-online.org/>. **National Leak Prevention Association: NLPA Standard 631, "Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage Tanks," Chapter B, 1991.**

(NLPA Standard 631 was omitted and needs inclusion)

(g) National Institute of Standards and Technology (NIST), NIST, 100 Bureau Drive, Stop 1070, Gaithersburg, MD 20899-1070, (301) 975-NIST (6478), or at <http://www.nist.gov/index.html>.

(h) National Work Group On Leak Detection Evaluations (NWGLDE), <http://www.nwglde.org/>

(This group is not "officially" sanctioned by EPA and its members are volunteers. While very knowledgeable and well-intended, they have no legal standing and there is no appellate options if they disapprove of a leak detection method. Government cut-backs are going to continue to make it difficult for members to attend meetings for this group. DEP should not formally link the rule to this organization, but use the group as a technical resource.)

(i) Petroleum Equipment Institute (PEI), Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918) 494-9696, or at www.pei.org/:

1. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition; and

2. Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary



Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition.

(j) Steel Tank Institute (STI), ~~944 Donata Ct, 570 Oakwood Road~~, Lake Zurich, Illinois 60047, (847) 438-8265, or at <https://www.steel tank.com/>:

1. sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013; ~~and~~

2. Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006;:

3. Cathodic Protection Testing Procedures for sti-P3 UST's, STI R051-06, (R051)

4. Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, STI R972; and,

5. Storage Tank Maintenance STI R111, (R111).

6. Specification for External Corrosion Protection of FRP Composite Steel USTs - ACT-100® F894

7. Specification for External Corrosion Protection of Composite Steel USTs - ACT-100-U® F961

8. Permatank®: Specification for Permatank®, F922, January 2013

9. Standard for Dual Wall Underground Steel Storage Tanks, F841, January, 2006

(These standards are all recommended by the Steel Tank Institute as having relevance with the existing rule and for future installations, and the EPA federal UST regulations reference numerous Steel Tank Institute standards. Many underground steel storage tanks installed in Florida were built to these standards and they remain as useful references. Therefore, they should be included as references)

(k) Underwriters Laboratories Standards (UL), 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847) 272-8800, or at www.ul.com/:

1. Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition;

2. Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition;

3. Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition; and

4. External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition.

5. Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems, UL 1856, 2013 Edition.

(Recommend the inclusion for UL 1856 for internal secondary containment.)

(l) U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001, (202) 512-1800, or at www.gpo.gov/:

1. Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST), Title 40, Part 280, July 2008; Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001; and

2. Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001.

(3) Applicability of Reference Requirements: Unless otherwise specified in this Chapter, facilities installed before *(the effective date of the rule)* are subject to the Reference Requirements listed in the Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities installed after *(the effective date of the rule)* shall comply with this subsection on or after *(the effective date of the rule)*.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New12-10-90, Amended 7-13-98, 6-21-04, _____.

62-761.300 Applicability.

(1) General Requirements.:

~~(a) Underground storage tank systems:~~ The requirements of this Chapter, unless specified otherwise, apply to



owners and operators of facilities, ~~and owners and operators of~~ underground storage tank UST systems with individual storage tank capacities greater than 110 gallons, that contain or contained regulated substances;

1. ~~Vehicular fuel, subject to Chapter 17-61, F.A.C., after May 21, 1984;~~
2. ~~Pollutants or hazardous substances after December 10, 1990; or~~
3. ~~Regulated substances in unmaintained storage tank systems.~~

(b) ~~This rule is applicable to non-residential facilities. Under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal UST rules (advisory information only not required by this Chapter).~~

(2) Exemptions: The following ~~underground systems~~ are exempt from the requirements of this Chapter:

- (a) Any storage tank system storing any hazardous waste listed or identified under Subtitle C of the Resource Conservation and Recovery Act, or a mixture of such hazardous waste and other regulated substances;
- (b) Any storage tank system regulated under the Toxic Substances Control Act (15 U.S.C. 2065);
- (c) Any pesticide waste degradation system regulated under Chapter 62-660, F.A.C.;
- (d) Storage tank systems used solely for temporary storage of mixtures of pesticides and diluent for reapplication as pesticides;
- (e) Any storage tank system with a storage capacity of less than 30,000 gallons used for the sole purpose of storing heating oil for consumptive use on the premises where stored. **“Heating oil” means any petroleum-based fuel used in the operation of heating equipment, boilers, or furnaces;**

(Recommend leaving it in the definitions section and excluding it here)

- (f) ~~Any tank that contains asphalt or asphalt products not containing other regulated substances;~~

(Agree with excluding Asphalt here, but recommend retention in the AST sections)

(g) ~~Any storage tank system storing regulated substances that are solid or gaseous at standard temperature and pressure;~~

~~(h)~~ Any storage tank containing Liquid Petroleum Gas;

~~(g)(i)~~ Any storage tank system that;

1. Contains a regulated substance at a concentration of less than two percent for pollutants and below the reportable quantities for hazardous substances under 40 C.F.R. 302; and
2. Was never previously regulated under Chapter 376.30 through 376.309, F.S. or this Chapter; contains small quantities (de minimus, as per 40 C.F.R. Section 280.10(b)(5)) of regulated substances;

~~(h)(j)~~ Any storage tank system that contains wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;

~~(i)(k)~~ Any septic tank system;

~~(h)~~ Any stormwater or wastewater collection system, including oil-water separator tanks;

~~(m)~~ Any surface impoundment, pit, pond, or lagoon;

~~(j)(n)~~ Any agricultural storage tank system of 550 gallons capacity or less that is used for agricultural purposes;

~~(k)(o)~~ Any residential storage tank system used solely for residential purposes. However, under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal underground storage tank rules;

~~(l)(p)~~ Any emergency spill or emergency overflow containment storage tank system that is emptied as soon as possible after use, and that routinely remains empty;

~~(q)~~ Any flow-through process tank system. For industrial and manufacturing facilities, integral piping is considered to terminate at the forwarding pump or valve used to transfer regulated substances to process, production, or manufacturing points of use or systems within the facility;

~~(m)(r)~~ Any storage tank system, liquid trap, or associated gathering lines directly related to oil or gas production and gathering operations regulated by Chapter 377, F.S.; however, this exclusion does not apply to storage tanks that contain refined products;

~~(n)(s)~~ Any ~~e~~Equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift or fluid tank systems that hold hydraulic fluid for closed-loop mechanical systems used to operate lifts, elevators, and other similar devices and cooling oil (dielectric fluid) systems used for electrical equipment and electrical equipment tank systems;



~~(o)(t)~~ Any pipeline, piping and “break-out” tanks directly connected to the pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration, pursuant to Title 49, Parts 190-199 of the Code of Federal Regulations facilities;

~~(p)(u)~~ Any storage tank system containing radionuclides or that is part of an emergency generator system for nuclear power generation at facilities regulated by the Nuclear Regulatory Commission under 10 C.F.R. Part 50 Appendix A;

~~(q)(v)~~ Any ~~v~~vapor recovery holding tanks and associated vapor recovery piping systems; or

~~(r)~~ Any storage tank system containing biofuel that has a concentration of regulated substance of five percent or less by volume.

~~(w)~~ Any rail or tanker truck loading or unloading operations (loading racks) specified in Chapter 5 of NFPA 30.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.300, Amended 7-13-98, 6-21-04,_____.

62-761.350 Operator Training and Certification (Reserved for Rulemaking)

62-761.400 Registration and Financial Responsibility.

(1) For installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction begins.

(b) A completed Form 62-761.900(2), Storage Tank Facility Registration Form (Registration Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the Department no later *than seven days before installation, or no later than 2140* days after installation notification to the County pursuant to Rule 62-761.405, F.A.C. Copies of the Registration Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(The current rule allows Registration 30 days after regulated or hazardous substances are put into any new storage tank system. The proposed rule requires submittal of the Registration Form 10 days after Installation Notification, which is 30 to 45 days before installation. This means an owner may have to submit the registration form 20 to 35 days before installation, a difference of 50 to 65 days before the existing rule. What is the rush? With the new requirements for Operator Training and Delivery Prohibition, it is understandable that the DEP would want registration prior to Operation, but this paperwork takes time for owners to complete. It is recommended that this date be changed to “no later than seven days before installation, or no later than 21 days after installation notification”)

(c) A completed Form 62-761.900(5), Underground Storage Tank System Installation and Removal Form for Certified Contractors (Certified Contractors Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the County no later than 10 days after installation of a storage tank system. Copies of the Certified Contractors Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or, www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(2) For change in service status or closure pursuant to Rule 62-761.800, F.A.C.:

(a) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days after completion of the change in service status.

(b) A completed Certified Contractors Form shall be submitted to the County in paper or electronic format no later than 10 days after removal of a storage tank system.

(3) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days of the following changes or discovery:

(3) Financial responsibility.

(a) Any change in the owner or operator of a facility or of a storage tank system.

(a) General requirements.



1. ~~The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance. Financial responsibility is only required for tanks containing petroleum or petroleum products. Financial responsibility is the ability to pay for corrective action and third-party liability resulting from a discharge at the facility.~~

2. ~~The demonstration of financial responsibility shall be made by the owner or operator in accordance with C.F.R. Title 40, Part 280, Subpart H.~~

3. ~~Financial responsibility requirements for petroleum storage systems containing petroleum products may be supplemented by participation in the Florida Petroleum Liability Restoration and Insurance Program to the extent provided by Section 376.3072, F.S.~~

4. ~~Notwithstanding the owner's or operator's financial responsibility status, the owner or operator may, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.~~

(b) Any change or correction in the information reported in the Registration Form. A change within the same blend of regulated substances should not be reported (e.g., regular unleaded to premium unleaded gasoline);

(b) The minimum requirements for financial responsibility for USTs containing petroleum or petroleum products shall be the same as provided by C.F.R. Title 40, Part 280, Subpart H.

(c) A change from a regulated substance to a non-regulated substance; and

(d) The discovery of an unregistered storage tank system.

(1) General registration requirements.

(a) The owner or operator of any facility, or the owner or operator of a storage tank system shall register the storage tank system with the Department on Form 62-761.900(2).

(b) A completed registration form shall be submitted to the Department no later than 30 days after regulated or hazardous substances are put into any new storage tank system.

(4)(2) Registration fees.

(a) Registration fees are due from the tank or facility owner or operator, as indicated in this section, for all registered storage tank systems required to be registered. Registration fees except for storage tank systems that have been properly closed in accordance with subsection 62-761.800(2), F.A.C., will no longer be due once any outstanding fees have been paid.

(b) A registration fee of \$50.00 per tank or vessel shall be submitted for each initial registration of a storage tank system. The fee shall be paid within 30 days after receipt of an invoice by the Department.

(c) A renewal fee of \$25.00 per tank shall be paid to the Department for each storage tank system not meeting the closure requirements of subsection 62-761.800(2), F.A.C. by July 1 each year.

(d) A replacement fee of \$25.00 per tank shall be paid to the Department for each tank that is replaced for the purpose of facility upgrading, within 30 days after receipt of an invoice by the Department.

(e) A late fee of \$20.00 per tank shall be paid to the Department for any renewal that is received after July 31.

(f) Upon receipt of payment of all applicable initial registration fees and annual renewal fees, each facility shall receive a valid registration placard, pursuant to Section 376.3077, F.S. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the storage tank system is located. Posted on the Department website will be information regarding those motor fuel facilities who have not timely paid their registration fees. Each facility shall receive a registration placard upon payment of all applicable fees. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the tank is located.

(5) Unless a valid registration placard is displayed in plain view as required by paragraph 62-761.400(4)(f), F.A.C., no motor fuel may be deposited into a storage tank required to be registered pursuant to this Rule. Facility owners, operators and suppliers are each responsible for compliance with this provision.

(6) Revocation of Registration Placard. (Reserved for Rulemaking)

(7) Delivery prohibitions. (Reserved for Rulemaking)

Rulemaking Specific Authority 376.303, 376.322(2) FS. Law Implemented 376.303, 376.309, 376.323, 376.3077 FS. History—New 12-10-90, Formerly 17-761.400, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.405 Notification.

(1) For Installations:



(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction will begin.

(b) Notification shall be received by the County in writing or electronic format between 30 and 45 days before installation of a storage tank system or system component unless the County agrees to a shorter time period.

(c) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the installation work to confirm the date and time of the scheduled activities.

(2) For change in service status closure, or closure evaluation:

(a) Notification shall be received by the County in writing or electronic format between 10 and 25 days before the initiation of the work unless the County agrees to a shorter time period.

(b) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the initiation of the work to confirm the date and time of the scheduled activities.

(3) Notification of the discovery of an incident shall be made to the County in writing or electronic format on Form 62-761.900(6), Incident Notification Form (INF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 72 hours; however an INF need not be submitted if, within 72 hours of discovery, the investigation of the incident in accordance with Rule 62-761.430, F.A.C., confirms that a discharge did or did not occur. Copies of the INF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(4) Notification of the discovery of a discharge shall be made to the County in writing or electronic format on Form 62-761.900(1), Discharge Report Form (DRF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 24 hours **or before the close of the next business day**. Copies of the DRF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(Retains the existing language)

(5) Notification is not required for Temporary Out-of-Service status, or for minor repairs to dispensers, submersible turbine pumps, sumps, or other storage tank system equipment.

(Clarifies that minor repair work and TOS requires no notification)

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.450, 62-761.450, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.420 Financial Responsibility.

(1) Financial responsibility is the ability to pay for cleanup of a discharge and third-party liability resulting from a discharge of petroleum or petroleum product at the facility.

(2) The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department for all storage tank systems until they are properly closed. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance.

(3) The demonstration of financial responsibility for storage tank systems shall be made available for inspection by the Department or the County and shall be in accordance with Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST) – Financial Responsibility, Title 40, Part 280, Subpart H, July 2008, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, hereby adopted and incorporated by reference, and is available from the address given.

(Why was sub-paragraph (4) included in the AST rule and excluded in the UST rule?)

(4) Notwithstanding the owner's or operator's financial responsibility status, the owner and operator shall, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.



Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.309 FS. History-New

62-761.430 Incidents.

(1) Incidents include:

(a) The following positive responses of release detection devices or methods described in Rule 62-761.600, F.A.C.:

1. Any visual inspection of **any part of** a storage tank system, **dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances** that reveals **pitting corrosion with more than a fifty percent loss of its original design thickness, or cracking, splitting, blistering, delamination, softening** ~~signs of corrosion, cracks,~~ structural damage, leakage, or other similar problems **with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C.:**

(Cracks are usually seen within FRP and Polyethylene storage tank systems. What about incompatible issues, such as blistering, linings that are no longer adhering, or delamination? The proposed language in red will minimize potential inspector interpretation or judgment issues that have been a problem in the past, e.g. surficial rust on submersible turbine pumps, electrical conduits, piping sump hardware, or minor surficial rust on piping in sumps. This will allow the Department to focus on problems that are truly incidents.)

2. Any visual observation of regulated substances in a piping or dispenser sump;

3. Any alarm that indicates that liquid, vacuum, or pressure monitoring levels are not being maintained, or that liquid **other than de minimus levels of condensate** has been detected by a sensor in a normally dry interstice;

(Recognizes the inevitable presence of small amounts of condensate without missing a true incident)

4. Any visual observation that indicates that liquid monitoring levels are not being maintained;

5. Any vacuum or pressure change of **50% ~~10%~~** from one month to the next, or any cumulative change of vacuum or pressure exceeding **50% ~~10%~~** of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge;

(Recognizes real-world problems with fluctuations in vacuum and pressure without sacrificing environmental protection. I've seen significant changes from atmospheric pressure, the weight of the product in the tank, and daily temperature variations that affect vacuum and pressure gauges. If there is a leak at all, you will not be able to hold any vacuum, and the 50% level is a reasonable threshold. Also, having to refresh the vacuum at 50% is more cost effective)

6. Any visual inspection that indicates the presence of water **other than de minimus levels of condensate** and/or regulated substances in the interstice;

(Recognizes the inevitable presence of small amounts of condensate)

7. Any instance where a mechanical line leak detector is restricting flow;

8. Any instance where an electronic line leak detector has shut off power to the pump;

9. Any instance where a monitoring device has shut off the pump; and

10. Liquid in excess of one inch in an out-of-service storage tank.

(b) A failed integrity test for the following components:

1. Double-walled storage tanks;

2. Double-walled integral piping;

3. Piping sumps;

4. Dispenser sumps; and



5. Spill containment systems.

(c) Other unusual operating conditions, such as the erratic behavior of product dispensing equipment, the sudden loss of product from a storage tank system, or any unexplained presence of water in a tank or an interstitial space;

(d) The presence of odors of a regulated substance from surface water or groundwater, soil, basements, sewers and utility lines at a facility; and

(e) The loss of a regulated substance from a storage tank system, such as from an overflow, exceeding 25 gallons on impervious surfaces, other than secondary containment, provided that the loss does not come in contact with pervious surfaces.

(2) If an incident occurs at a facility, actions shall be taken within 24 hours of discovery to investigate the incident to determine if a discharge has occurred.

(3) Notification of the discovery of any incident shall be made to the County in writing or electronic format on an INF within 72 hours. However, an INF is not required to be submitted if, within 72 hours of discovery, the investigation of the incident confirms that a discharge did or did not occur.

(4) In cases where an INF is required to be submitted, the investigation shall be completed within 14 days of the date of discovery of the incident to determine if a discharge has occurred. Incident investigations that require additional time can be extended with the written approval of the Department or the County. However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system shall be placed out-of-service until such time the investigation is completed and resolved.

(5) At the end of the 14 day time period, or at the end of the alternate time period approved by the Department or the County to investigate the incident, either a DRF or a written confirmation and explanation that the incident was not a discharge shall be submitted to the County in writing or electronic format.

(6) The removal of any spill or loss of regulated substance into secondary containment shall be initiated within three days of discovery, and completed within thirty days of discovery.

(7) If a discharge is discovered at any time during the incident investigation, the discharge shall be reported on a DRF within 24 hours of discovery or before the close of the next business day, and a discharge response shall be initiated in accordance with subsection 62-761.440(6), F.A.C.

(8) All incidents, regardless of whether an INF is required to be submitted, shall be documented and records kept until storage tank system closure in accordance with Rule 62-761.710, F.A.C. Test results or reports, which support the investigation findings, shall be maintained as records.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History–New

62-761.440 Discharges.

(1) Discharges include:

(a) Laboratory analytical results of surface water or groundwater samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C.;

(b) Laboratory analytical results of soil samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C. that exceed the lower of direct exposure residential or leachability based on groundwater criteria cleanup target levels in Chapter 62-777, F.A.C.;

(c) The presence of free product, a visible sheen, sludge, or emulsion of a regulated substance, or a regulated substance that is visibly observed in soil, on or in surface water, in groundwater samples, on basement floors, in open drainage ditches, in open excavations or trenches, in subsurface utility conduits or vaults, or in sewer lines at the facility; and

(d) A spill or overflow of a regulated substance to a pervious surface.

(2) Upon discovery of a discharge, the owner or operator shall report the discharge to the County on a DRF within 24 hours or before the close of the County's next business day.

(3) Copies of laboratory analytical results that confirm a discharge shall be submitted to the County within 24 hours of receipt of the results or before the close of the next business day in writing or electronic format.

(4) A request for a retraction of a submitted DRF shall be submitted to the County or the Department in writing or electronic format if evidence is presented that a discharge did not occur at the facility.

(5) A DRF does not need to be submitted:

(a) For a discharge that was previously reported to the appropriate County on a DRF;

(b) For petroleum or petroleum product de minimis discharges in accordance with Rule 62-780.560, F.A.C., unless the regulated substance has a more stringent reporting requirement specified in the following document which



is hereby adopted and incorporated by reference, and is available from the address given: Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001; or

(c) For ~~non-petroleum~~ ~~nonpetroleum~~ de minimis discharges in accordance with Rule 62-780.550, F.A.C., unless the pollutant has a more stringent reporting requirement specified in Title 40, Part 302.

(Typo)

(6) Discharge response.

(a) When evidence of a discharge from a storage tank system is discovered, the following actions shall be taken:

1. Fire, explosion, and vapor hazards shall be identified and mitigated;
2. Actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules (e.g., Chapter 62-780, F.A.C., Contaminated Site Cleanup Criteria). Owners and operators are advised that other federal, state, or local requirements apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with Chapter 62-780, F.A.C.;
3. Each component of the storage tank system shall be integrity tested within three days of discovery of the discharge if the source and/or cause of the discharge is unknown;
4. The storage tank system component that is discharging shall be isolated from the system within three days of discovery of the discharge. If the component cannot be isolated from the system, within three days of discovery of the discharge the storage tank system shall not operate, dispense, or accept deliveries, or shall be placed out-of-service in accordance with Rule 62-761.800, F.A.C., until the component can be repaired or replaced;
5. If the storage tank system component that was found to be discharging will be repaired, it shall be repaired in accordance with Rule 62-761.700, F.A.C.;
6. If the storage tank system component that was found to be discharging will be replaced, it shall meet the storage tank system requirements in accordance with Rule 62-761.500, F.A.C.; and
7. If the storage tank system component that was found to be discharging will not be repaired or replaced, the storage tank system, if not already out-of-service, shall be placed out-of-service within 90 days or be closed in accordance with Rule 62-761.800, F.A.C.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History–New _____.

62-761.450 Notification and Reporting.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.450, Amended 9-30-96, 7-13-98, 6-21-04., Repealed _____.

Substantial rewording of Rule 62-761.500, F.A.C., follows. See Florida Administrative Code for present text.

62-761.500 Performance Standards for Category C Storage Tank Systems Requirements.

(1) General requirements.

(a) Wellhead Protection. Persons are advised that Chapter 62-521, F.A.C., contains restrictions regarding the location of storage tank systems within 500 feet of a potable water well.

(b) Secondary containment.

1. The materials used for secondary containment shall be:

- a. Impervious to the regulated substance and able to withstand deterioration from external environmental conditions;
- b. Non-corrosive or of corrosion-protected materials; and
- c. Of sufficient thickness and strength to withstand hydrostatic forces at maximum capacity to prevent a discharge.

2. For cathodically protected tanks and integral piping, secondary containment systems shall not interfere with the operation of the cathodic protection system.



3. For VCI protected tanks, the secondary containment system shall provide containment for the vapor corrosion inhibitors.

(Includes vapor-corrosion inhibitor technology)

3. Secondary containment systems shall be designed and installed to direct any release to a monitoring point or points.

4. Containment and interstitial, as applicable, integrity tests shall be performed for all spill containment systems, piping sumps, hydrant sumps, and dispenser sumps before placing the components into initial use. The tests shall be in accordance with manufacturer's requirements. If a hydrostatic test is used, it shall be performed for at least:

- a. Twenty-four hours for field-fabricated components; or
- b. Three hours for factory-made components.

5. An interstitial integrity test shall be performed on the storage tank after it is delivered to the **or installed at the** facility and before the storage tank is placed into service. This test shall be performed in accordance **with manufacturer's requirements and** with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition, Petroleum Equipment Institute (PEI), Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380, and Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition, Petroleum Equipment Institute (PEI) Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380.

(Clarification)

6. An interstitial integrity test shall be performed on integral piping in accordance with PEI/RP100-11 and PEI/RP1200-12 before the integral piping is placed into service.

7. An interstitial integrity test shall be performed on double-walled spill buckets or double-walled sumps in accordance with PEI/RP1200-12 before the component is placed into service.

(Note – double-wall spill buckets or piping sumps are not required by rule or statute. However, if an owner chooses to install a double-wall spill bucket or piping sump, it makes sense to perform a test at installation, but not at any other time.)

(c) Cathodic protection.

1. Test stations. Cathodic protection systems shall be designed, constructed, and installed with test stations in accordance with NACE standards contained in paragraph 62-761.210(2)(d), F.A.C. Cathodic protection test stations shall provide direct access to the soil in close proximity to each cathodically protected structure for placement of reference electrodes, and monitoring wires that connect directly to cathodically protected structures. Facilities where direct access to soil in close proximity to cathodically protected structures is present, and where electrical connections to cathodically protected structures can be conveniently accomplished, need not have separate dedicated cathodic protection test stations.

2. The cathodic protection system shall be operated and maintained in accordance with subsection 62-761.700(2), F.A.C.

3. Any field-installed cathodic protection system shall be designed and installed by or under the direction of a Corrosion Professional.

4. Cathodic protection is not required for any underground storage tanks with field-fabricated internal secondary containment that is self-structural without any structural support from the host tank.

(Internal secondary containment systems that are self-structural are dependent on a steel tank host and will not require cathodic protection)

5. Supplemental anodes that are added to a sti-P3 tank can be installed according to STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs .



(Correct reference)

(d) Corrosion Protection with Vapor Corrosion Inhibitors (VCI)

1. Testing locations for vapor corrosion inhibitors. Vapor Corrosion Inhibitor technologies registered with the Department in accordance with Rule 62-762.851(2), F.A.C. provide an alternative to cathodic protection for protection of metal surfaces within secondary containment. Vapor corrosion inhibitors (VCI) effectiveness shall be established by the use of electrical resistance probes located in testing locations as recommended by a Corrosion Professional to monitor corrosion rates. Electrical resistance (ER) probes must be able to determine corrosion rates based on the increase in electrical resistance over time of a metal element on the probe surface where the metal loss in the element's cross-sectional area from corrosion will be accompanied by a proportional increase in the element's electrical resistance. If electrical resistance probes cannot be incorporated into the VCI protection system, then an alternate method as recommended by a Corrosion Professional shall be used.

2. Any field-installed VCI protection system shall be designed and installed by or under the direction of a Corrosion Professional and the VCI manufacturer's certified installer. The VCI protection system shall be operated and maintained in accordance with subsection 62-762.701(3), F.A.C.

(Language needed to allow the use of corrosion protection systems previously approved by the Department that are equivalent to cathodic protection systems for USTs)

(d) Compatibility. The primary and secondary walls of storage tank systems shall be made of, or internally lined with, materials that are compatible with the regulated substance stored in the storage tank systems and with substances or conditions present in the environment. All storage tank systems containing blends of ethanol, biodiesel, or other biofuels and additives shall be compatible with the regulated substances stored in the storage tank systems.

(e) All components of a storage tank system shall be installed in accordance with the manufacturer's instructions.

(f) All storage tank systems shall be installed in accordance with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070.; Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Process Piping, B31.3-2004, 2012 Edition, ASME International (founded as the American Society of Mechanical Engineers), Published by ASME, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900; and PEI/RP100-11. **Storage tanks with field-fabricated internal secondary containment shall be installed in accordance with manufacturer's specifications, UL 1856, and NLPA 631.**

(The rule needs to include the reference standards associated with internal secondary containment)

(g) A Certified Contractor shall perform the installation of storage tank systems containing pollutants, including tanks, integral piping (excluding drop tubes), overfill protection and spill containment equipment, internal release detection equipment, cathodic protection systems, secondary containment systems, and dispensing systems, if the installation of the storage tank system component disturbs the backfill, or where the integral piping is connected or disconnected during installation.

(h) Whenever storage tanks and/or integral piping are installed, modified or relocated after the effective date of this rule, Record Drawings ("as-builts"), signed and sealed by a professional engineer licensed in the state of Florida, shall be completed and maintained as a record in accordance with Rule 62-761.710, F.A.C. The as-built drawing shall include all construction and equipment design specifications including exact dimensions, geometry, and locations of the storage tanks and/or integral piping, of the work completed under contract, and any changes made to the original specifications during the construction process. **As-built drawings are not required for**



tanks that are installed or retrofitted with internal secondary containment.

(Note – the requirement for “As-builts” only makes sense for UST systems, but it will add an additional cost. The increase in costs should be quantified before the passage of the rule to determine if there is a significant environmental benefit for the extra cost. Also, tanks with internal secondary containment using the Phoenix, ZCL, Petrofuse, or Tank Tech Stand-Alone systems do not need to supply as-builts.)

(2) Storage Tanks.

(a) All storage tanks at a facility shall have secondary containment and shall be constructed or installed to provide for interstitial monitoring of the entire storage tank.

(b) Fiberglass reinforced plastic double-walled tanks shall be constructed in accordance with the following document, Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition, Underwriter’s Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference and available at the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(c) Cathodically protected double-walled steel tanks shall be:

1. Constructed in accordance with the following documents, or as applicable: Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition, Underwriter’s Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, and External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition, Underwriter’s Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and are available from the addresses given;

2. Constructed in accordance with the following document, sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given; or

3. Constructed in accordance with the following document, STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given; or

(This RP fulfills the requirements of c.3 specifically for the STI sti-P3 cathodic protected tank)

3. Certified by a Nationally Recognized Testing Laboratory for any field-installed cathodic protection system, that these requirements are met, constructed and designed by a Corrosion Professional in accordance with the following document, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and is available from the address given.

(d) Double-walled steel tanks coated with a fiberglass reinforced plastic composite shall be constructed in accordance with UL 58 and UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(e) Jacketed steel tanks shall be constructed in accordance with UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(Paragraph (d) precludes the use of jacketed tanks. These are steel tanks with an outer non-metallic tank that provides both corrosion protection and secondary containment. These tanks are built to UL 1746 and should be included as a new paragraph (e).)

(f) Underground storage tanks with field-fabricated internal secondary containment shall be:

1. Installed in accordance with manufacturer’s specifications and NLPA 631 and UL 1856;



2. Either be a self-structural design that has no structural contribution from the host tank, or a co-structural design that has shared structural support from the host tank with the retrofit system; and
3. Must be registered in accordance with Rule 62-762.850(2), F.A.C.

(Internal secondary containment has been around a long time in Florida and should be listed in the rules as a viable option for secondary containment)

(e) Double-walled storage tanks that meet the above performance requirements, that are constructed of equivalent material, have an equivalent design, or are corrosion protected shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(f) Tanks shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(g) Double-walled storage tanks that have been removed and that are to be reinstalled at a different location shall:

1. Be recertified that all original warranties are confirmed by the original manufacturer or the manufacturer's successor, and be reinstalled in accordance with the requirements in this section; or

2. Be recertified by a professional engineer licensed in the state of Florida that the storage tank meets all applicable requirements of this section; and

3. Proof of recertification shall be provided to the Department and County prior to the start of installation. The storage tank shall be re-registered in accordance with subsection 62-761.400(1), F.A.C.

(3) Integral piping.

(a) All integral piping, including remote fill piping that is in contact with the soil shall have secondary containment; or

(b) All integral piping that transports regulated substances over surface waters of the state shall have secondary containment and shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials; or

(c) All integral piping that is not in contact with the soil shall meet the construction requirements in paragraphs 62-761.500(3)(d)2. through 4., F.A.C., shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials.

(d) Construction requirements.

1. Fiberglass reinforced plastic integral piping or other non-metallic double-walled integral piping installed in contact with the soil at a facility shall meet the requirements of Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.

2. Coated steel double-walled integral piping shall be constructed in accordance with ASME B31.3. In addition, steel integral piping in contact with the soil shall be cathodically protected in accordance with the following documents: Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070; Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906; and Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and available from the addresses given.

3. Metallic double-walled integral piping constructed of nonferrous materials such as copper shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, Piping Systems.

4. Integral double-walled piping constructed of other materials, design, or corrosion protection shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(e) Integral piping shall be installed with a slope to a low point monitoring system to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(f) Pressurized integral piping systems connected to dispensers shall be installed with shear valves or emergency shutoff valves in accordance with Section 6.3 of NFPA 30A, Requirements for Dispensing Devices.



These valves shall be designed to close automatically if a dispenser is displaced from its normal position. The valves shall be rigidly anchored independently of the dispenser. The valves shall be tested in accordance with PEI/RP1200-12 at the time of installation by a certified contractor to confirm that the automatic closing function of the valve operates properly and that the valve is properly anchored.

(g) All storage tanks located at an elevation that produces a gravity head on the dispenser or on integral piping positioned below the product level in the storage tank must be installed and maintained with an isolation block valve in accordance with Chapter 22.13 of NFPA 30, Tank Openings Other Than Vents, and located as close as practical to the storage tank. In addition, anti-siphon valves for suction and pressurized systems with dispensers that are subject to NFPA 30A, shall be installed and maintained in accordance with Section 11.2 of NFPA 30A, Marine Fueling - Storage. Storage tank systems without dispensers shall be installed with valves that will prevent the tanks from emptying if there is a leak or break in the integral piping.

(h) Pressurized integral piping systems connected to dispensers shall be installed with a method of leak detection that can detect a leak within one hour, and can be either a mechanical line-leak detector or an electronic line leak detector, or another device registered in accordance with Rule 62-761.850(2)F.A.C.

(Ought to be in this section as well as Section 600 to make it clear to owners and operators)

(i) Storage tank systems using corrosion protection systems with vapor corrosion inhibitors that are registered in accordance with Rule 62-762.851(2), F.A.C. shall be designed and installed under the direction of a Corrosion Professional and shall be installed with at least one electrical resistance probe test location or a method of monitoring to allow for a determination of the corrosion rate within the interstitial space or metallic surface within a contained area. The VCI system shall be designed and installed in accordance with the requirements specified in Rule 62-762.701(2), F.A.C.

(Allows the use of VCI's for interstitial corrosion protection)

(4) Spill containment systems.

(a) Storage tank systems shall be installed with a spill containment system at each tank fill connection meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C..

(b) Fillbox covers shall be marked or the fill connection tagged in accordance with Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, hereby adopted and incorporated by reference, and is available from the address given, or with an equivalent method approved by the Department in accordance with subsection 62-761.850(1), F.A.C.

(c) Spill containment systems, ~~including double-walled spill containment systems~~, shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. **Double-wall spill containment systems are not required to perform interstitial integrity tests or monthly interstitial monitoring observations, and are considered single-wall spill buckets for the purpose of this rule.**

(Note – double-wall spill buckets are not required by rule or statute. If an owner chooses to purchase double-wall spill containment, it makes sense to perform a test at installation in accordance with manufacturers specifications, but owners should not be punished with extra costs if they have double-wall spill buckets. DEP should not require monthly interstitial monitoring or interstitial B.O.I.'s after installation unless an owner chooses to perform one instead of a hydrostatic test of the primary.)

(5) Dispensing systems and dispenser sumps.

(a) The dispensing system used for transferring fuels from storage tanks to vehicles or portable containers shall be installed and maintained in accordance with the provisions of NFPA 30 and Chapter 6, Fuel Dispensing Systems; Chapter 9, Operational Requirements; and Chapter 11, Marine Fueling of NFPA 30A.



(b) Dispensers shall be installed with a dispenser sump meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C. The dispenser sump shall extend beneath the union of the integral piping and the dispenser, including the shear valve, if applicable.

(c) Dispenser sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. The dispenser sump shall be capable of containing a release for the entire area beneath the dispenser.

(6) Piping sumps.

(a) Piping sumps shall meet the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and be registered in accordance with subsection 62-761.850(2), F.A.C. The sumps shall be designed, constructed, and installed to minimize water entering the sump.

(b) Piping sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(7) Overfill protection.

(a) Owners or operators shall ensure that the volume available in the storage tank is greater than the volume of regulated substances to be transferred to the storage tank before the transfer is made and shall ensure that any transfer is repeatedly monitored to prevent overfilling and spilling.

(b) Storage tank systems shall be equipped with an overfill device that:

1. Automatically shuts off flow to the storage tank when the storage tank is no more than 95% full;
2. Restricts flow to the storage tank when the storage tank is no more than 90% full and does not fill the storage tank beyond 95% capacity. Vent restriction devices such as ball float valves shall not be installed at facilities after *(the effective date of the rule)* unless the storage tank system meets the requirements of Section 7 of PEI/RP 100-11, UST Overfill Equipment Verification, Inspection and Testing; or
3. Alerts the transfer operator when the tank is no more than 90% full by triggering an alarm and does not fill the tank beyond 95% capacity.

(c) Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.

(d) Storage tank systems with capacities of 2000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser are exempt from overfill protection requirements provided that the tanks are never filled beyond 80% capacity.

(e) Overfill devices shall be registered in accordance with subsection 62-761.850(2), F.A.C.

(f) New day tanks shall be installed with an overfill protection system that returns the regulated substance to the storage tank from the day tank through separate integral piping.

(g) All new float control valves installed on day tanks and all overfill alarms on storage tanks shall be tested annually at intervals not exceeding 12 months to demonstrate the float control valve or alarm is operating as designed. These records shall be kept for five years in accordance with Rule 62-761.710, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.500, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.510 Performance Standards for Category-A and Category-B Storage Tank Systems

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303-.3072 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.510, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.600 Release Detection Requirements Standards.

(1) General requirements.

(a) Storage tank systems shall have a method, or combination of methods, of release detection that:

1. Can detect a new release from any portion of the storage tank system;

(b) Any storage tank system without a method, or combination of methods, of release detection in accordance with this section, shall immediately provide a method of release detection, or immediately empty the storage tank system and place the affected system out-of-service, or close the system in accordance with subsection 62-761.800(2), F.A.C.

(c) Any component of a storage tank system with an interstice shall have a method of interstitial monitoring.

Interstitial monitoring can be performed with vacuum, pressure, hydrostatic (liquid-level sensing), sensors or probes, and visual release detection methods.

(Clarification)



2. Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability to ensure that the device is functioning as designed; and

3. Meets the applicable performance standards in Rule 62-761.640, F.A.C. All manufacturer's instructions, and the performance claims and their manner of determination described in writing by the equipment manufacturer or installer shall be retained for as long as the storage tank system is used.

(b) A release detection response level shall be described in writing for each method or combination of methods of release detection used for a storage tank system.

(c) A release detection method shall be established and provided for all storage tank systems upon installation.

(d) Except as otherwise specified in this Rule Rules 62-761.600-.640, F.A.C., the release detection method or combination of methods used at a facility shall be performed at least once ~~every~~ a calendar month, but not exceeding 35 days, to determine if a release from the storage tank system has occurred.

(e) Visual inspections. Any ~~Every~~ component of a storage tank system **that contains, transfers, or stores, or is designed to contain, transfer, or store pollutants** that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of **any component** a storage tank ~~system, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances~~ that reveals **pitting corrosion with more than a fifty percent loss of its original design thickness, or cracking, splitting, blistering, delamination, softening signs of corrosion, cracks,** structural damage, leakage, or other similar problems **with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C.** is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. Repairs shall be made in accordance with Rule 62-761.700, F.A.C. A **monthly** visual inspection is not required for any system component using an electronic release detection method, **but piping sumps must be visually inspected every six months and records kept of the visual inspection.** At least once a month, but not exceeding 35 days, any storage tank and component of a storage tank that can be inspected visually shall be visually inspected in accordance with paragraph 62-761.640(2)(e), F.A.C. A visual inspection is not required for any system component that has a continuous or monthly electronic release detection sensor. Continuous electronic leak detection devices shall be inspected for proper operation on a monthly basis. Inspection may consist of visual observation or remote verification of proper operation.

(Same language as used in the INF section, and will ensure that only bonafide incidents will be reported, and that minor ethanol-induced corrosion will not be included. The proposal for semi-annual visual inspections of piping sumps is a safeguard for faulty sensors)

(f) Electronic and mechanical release detection devices shall be:

1. Installed, calibrated, operated and maintained in accordance with the manufacturer's instructions and shall be designed and installed to provide service checks for operability to ensure that the device is functioning in accordance with subsection 62-761.700(3), F.A.C.; and

2. Registered in accordance with subsection 62-761.850(2), F.A.C., except that controllers or annunciators that are used to display leak detection test results are not required to be registered. A site suitability determination shall be performed for UST systems by December 31, 1998, in accordance with paragraphs 62-761.640(2)(a)-(d), F.A.C., for storage tank systems using groundwater or vapor monitoring wells for release detection. If the site suitability determination indicates that on-site conditions are unsuitable for external monitoring, another method of release detection must be used.

(g) Electronic release detection devices shall be inspected for proper operation at least once every calendar month, but not exceeding 35 days. A record or summary of the alarm history, sensor status and testing results related to potential releases shall be printed from any electronic release detection device. If the release detection system is not capable of printing records, a manual log shall be maintained of the alarm history, sensor status and testing results. Vapor monitoring plans shall be performed by December 31, 1998, for UST systems, in accordance with paragraph 62-761.640(2)(d), F.A.C., for storage tank systems using vapor monitoring for release detection.

(h) Release detection shall be constructed and installed so that groundwater, rainfall, or soil moisture will not render the release detection method used inoperable. Any component of a storage tank system with secondary containment shall have an interstitial monitoring method meeting the requirements of paragraph 62-761.640(3)(a), F.A.C.

(i) Storage tank systems that store fuel solely for use by emergency power generators shall comply with the



release detection requirements of Rule 62-761.600, F.A.C., within 90 days of the effective date of the Rule. Pressurized piping, excluding bulk product piping, shall be equipped with a line leak detector that meets the standards of paragraph 62-761.640(4)(a), F.A.C. Gravity piping systems are exempt from this requirement.

(2) Storage Tanks.

(a) One or more of the following release detection methods shall be used:

1. Liquid level monitoring systems with electronic hydrostatic sensors. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid levels can not be maintained. Any alarm that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Vacuum monitoring. This method shall be able to detect incidents by determining changes in vacuum levels within the interstice by continuous monitoring of vacuum levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if vacuum levels can not be maintained. Any alarm that indicates that vacuum levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

3. Pressure monitoring. This method shall be able to detect incidents by using an inert gas and determining changes in pressure levels within the interstice by continuous monitoring of pressure levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if pressure levels can not be maintained. Any alarm that indicates that pressure levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

4. Electronic sensors in a normally dry interstice. This method shall be able to detect the presence of liquid in the interstice or monitoring low point and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid is detected. Any alarm that indicates the presence of liquid is considered a positive response, ~~and except for liquids confirmed as de minimus amounts of condensate, the~~ The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(Recognizes the common reality of small amounts of interstitial condensate)

5. Visually inspected liquid level monitoring systems. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir. Any visual observation that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

6. Visually inspected vacuum or pressure monitoring with gauges. This method shall be able to detect incidents by determining changes in vacuum or pressure levels within the interstice.

a. Vacuum or pressure readings shall be able to detect a ~~50~~ 40% change from one month to the next, or any cumulative change of vacuum or pressure exceeding ~~50~~ 20% of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge. Vacuum or pressure refreshment must be performed in accordance with manufacturer's specifications and the system's equipment registration in subsection 62-761.850(2), F.A.C. Any change indicated above is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(Release detection with gauges for USTs with double-walls, as well as associated integral piping, is often difficult because of variable influences and factors such as temperature, humidity and water in the piping sump, atmospheric pressure, and piping runs that go above and below ground. Small changes in vacuum and pressure are inevitable, and the 50% proposal will assist with the range of fluctuations that can occur. If there is a hole or breach in the system, it will not be able to hold ANY vacuum).



b. Liquid-filled gauges shall be calibrated using NIST traceable standards prior to initial operation. The gauges shall be operational at all times.

7. Visual monitoring of normally dry interstices. This method shall be able to detect the presence of liquid at a low point of the interstice. Any presence of water and/or regulated substances in the interstice **other than deminimus levels of condensate** is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(Recognizes the inevitable presence of small amounts of condensate)

8. Visual monitoring of liners. This method shall be able to detect the presence of liquid at a low point of the liner. The accumulation of water or condensation in the low point of the liner shall not interfere with the ability to detect regulated substances. Any **evidence of petroleum-stained containment surfaces, free product, or leaking of regulated substances from any part of a storage tank system secondary containment presence-of-regulated-substances** in the liner is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(If left unchanged, the "any presence" requirement could be interpreted by inspectors as a slight sheen from a couple of drops of fuel released when a fuel filter was changed. It would create incidents at nearly every facility in Florida)

(3) Integral piping with secondary containment.

(a) One or more of the release detection methods in subsection 62-761.600(2), F.A.C., shall be used.

(b) In addition, pressurized small diameter integral piping in contact with the soil shall be equipped with a release detection system that can detect a leak within one hour. One of the following methods shall be used:

1. Mechanical line leak detectors. Mechanical line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and restrict flow within one hour. Any instance where the mechanical line leak detector is restricting flow is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Electronic line leak detectors. Electronic line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and shut off power to the pump. Any instance where the electronic line leak detector has shut off power to the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. **Monthly release detection printed tapes from automatic tank gauges for electronic line leak detectors are not required to be kept as records to demonstrate compliance. However, if electronic or printed data from an electronic line leak detector indicates a potential incident has occurred, the printed data must be kept as a record and the incident investigated in accordance with Rule 62-761.430, F.A.C.**

(Makes it clear that owners and operators of electronic line leak detectors are not punished for having a more effective and environmentally friendly method of piping release detection than owners with mechanical line-leak detectors that are not as effective.)

3. Electronic interstitial monitoring devices. Storage tank systems without line leak detectors, shall have electronic interstitial monitoring devices that are capable of detecting a release of ten gallons within one hour and shutting off the pump. Any instance where the monitoring device has shut off the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(4) Annual operability testing of release detection systems. All release detection devices shall be tested annually at intervals not exceeding 12 months to ensure proper operation. The test must either simulate an actual alarm condition or shall be conducted according to manufacturer's specifications, and shall include, at a minimum, a determination of whether the device operates as designed. Remote testing of the system can be performed by the manufacturer if the remote test is included in the third party certification by a Nationally Recognized Testing

Laboratory.

(5) Records shall be kept for **threefive** years in accordance with Rule 62-761.710, F.A.C.

(Recordkeeping for three years correlates to the Departments inspection frequency and is less of a burden for facility owners)

(j) Any storage tank system not provided with a method, or combination of methods, of release detection in accordance with this section, shall be closed in accordance with subsection 62-761.800(2), F.A.C., by the date upon which release detection is to be provided.

(k) Groundwater and vapor monitoring wells meeting the standards for external monitoring specified in paragraphs 62-761.640(2)(a)-(d), F.A.C., that are no longer used for release detection, shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 2010. Wells not meeting these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are:

1. Used for contamination assessment purposes as specified in paragraph 62-761.600(2)(d), F.A.C.; or
2. Required by rules adopted by a County government in accordance with Section 376.317, F.S.

(2) By December 10, 1990, vehicular fuel petroleum storage tank systems of greater than 550 gallon capacity shall be provided with release detection. Release detection for all other storage tank and integral piping systems in contact with the soil shall be provided by December 31 of the year shown in Table RD.

TABLE RD

Year Storage

Tank System

Installed

Before 1970 or

unknown

1970-1974

1975-1979

1980-1990

Year Release

1990

P/RD

P

P

P

Detection Required

1991

RD

1992

RD

1993

RD

P = Installation of Release Detection for Pressurized Piping

RD = Installation of Release Detection for Tanks and Suction Piping.

(3) Effective December 31 of the applicable year specified under the schedule in Table RD, any groundwater monitoring plan or spill prevention control and countermeasure plan implemented before December 22, 1990, shall be capable of detecting the leak rate or quantity specified in paragraph 62-761.640(1)(a), F.A.C.

(4) UST systems that store fuel solely for use by emergency power generators are not required to comply with the release detection standards of Rules 62-761.600 through 62-761.640, F.A.C.

(5) Monitoring wells shall meet the standards of subsection 62-761.640(2), F.A.C., by December 31, 1998. Wells that do not meet these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are required by a rule that was adopted by a County government in accordance with Section 376.317, F.S. However, if a monitoring well is used solely for the purpose of monitoring petroleum contamination in accordance with Chapter 62-770, F.A.C., the well does not have to be closed until the completion of the site rehabilitation pursuant to Chapter 62-770, F.A.C. Covers of leak detection monitoring wells redesignated as site assessment wells by the facility owner or operator shall be colored black with a white circle within the black background. The diameter of the white circle shall be approximately one half the diameter of the manhole cover, or approximately four inches.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.3072 FS. History—New 12-10-90, Formerly 17-761.600, Amended 7-13-98, 6-21-04, _____.

62-761.610 Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.610, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.640 Performance Standards for Release Detection Methods



Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.640, Amended 9-30-96, 7-13-98, 6-21-04, Repealed.

Substantial rewording of Rule 62-761.700, F.A.C., follows. See Florida Administrative Code for present text.

62-761.700 Repairs, Operation and Maintenance of Storage Tank Systems.

(1) Repairs.

(a) Repairs shall be performed, as necessary, if any component of a storage tank system has:

1. A release or contributed to a release of a regulated substance; or

2. **Other than de minimus levels of condensate, an An** operational or structural problem that could potentially result in a release, or lead to the presence of water in the interstice of a double-walled storage tank or integral piping.

(b) The storage tank system shall immediately cease operating, dispensing, and/or accepting deliveries, if:

1. Repairs are required for any component of a storage tank system; and

2. The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shut down of electrical generating units serviced by the storage tank system.

(c) Repairs shall be made:

1. To restore the structural integrity of the storage tank system and in a manner that will prevent releases or discharges from structural failure or corrosion for the remaining operational life of the storage tank system; and

2. In accordance with manufacturer's specifications and applicable reference requirements.

(d) **If repairs are needed for any primary or secondary tank or piping system walls, or any component of the storage tank system with an interstitial space, then the repaired** Repaired components shall be integrity tested for liquid tightness before being placed back into operation.

(This proposed revision in red limits the integrity testing to the primary and secondary spaces for underground storage tanks and will minimize inspector misinterpretation)

(2) Cathodic **and Corrosion** protection.

(a) Cathodic **and Corrosion** protection systems shall be operated and maintained to provide continuous corrosion protection to the metal components of those portions of the storage tank and integral piping in contact with the soil **or within interstitial spaces using vapor corrosion inhibitor technologies**.

(b) Inspection and testing requirements.

1. Storage tank systems equipped with cathodic protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year, or every three years for factory-installed (galvanic) cathodic protection systems, thereafter in accordance with the criteria contained in NACE International Standards SP0169-2007 and SP0285-2011, **or STI R051-06 Cathodic Protection Testing Procedures for sti-P3 UST's (R051)**, as applicable. All cathodic protection systems shall either have permanent test stations for soil-to-structure potential measurements or use temporary field test stations for required testing in accordance with this subparagraph.

(Recommend adding STI R051 as an additional test method for testing sti-P3 tanks. Steel Tank Institute has performed over 100,000 tests on sti-3 tanks. STI was instrumental in revising NACE tank cathodic protection testing procedures for underground storage tanks, especially tanks with galvanic anodes. The STI R051 needs to be referenced.)

2. Storage tank systems with impressed current systems shall be inspected at intervals not exceeding two months. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 1440 hours in one year shall be immediately taken out-of-service and within 30 days, and assessed by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria.

(c) Records of the continuous operation of impressed current systems and all cathodic protection inspection,



testing, and repair activities shall be maintained in accordance with paragraph 62-761.710(3)(c), F.A.C.

(d) Storage tank systems with cathodic protection systems that have been determined by a Corrosion Professional that the cathodic protection system cannot achieve or maintain protection levels in accordance with the design criteria shall:

1. Be repaired within ~~90~~30 days in accordance with subparagraph 62-761.700(2)(b)1., F.A.C., or
2. Be closed in accordance with subsection 62-761.800(2), F.A.C.

(A corrosion professional generally doesn't review test reports. A cp tester alone will test and pass/fail a system. 30 days is not adequate time to have a system repaired. 90 days is more appropriate.)

(3) Vapor Corrosion Inhibitors

(a) Vapor Corrosion Inhibitor systems shall be operated and maintained to provide continuous corrosion protection to the metal surfaces within the interstitial spaces of storage tanks and piping. Vapor Corrosion Inhibitors can also be used for corrosion control for the ullage of USTs or other enclosed spaces.

(b) Inspection and testing requirements.

1. Storage tank systems equipped with VCI protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year thereafter. All VCI protection systems shall have permanent test stations with at least one electrical resistance probe to measure corrosion rates, or a method of monitoring to allow for a determination of VCI effectiveness and to monitor current operating status of the VCI protection system.. If the data from the electrical resistance probes or from an alternate method or source of data evaluated by a Corrosion Professional indicate that the vapor corrosion inhibitors have been depleted and can no longer provide the design capacity to protect the targeted metallic surfaces for the designed time period, the Corrosion Professional shall direct the replenishment or replacement of the depleted vapor corrosion inhibitors with a new quantity of vapor corrosion inhibitors.

2. Systems using vapor corrosion inhibitor technology must be tested in accordance with manufacturers instructions.

(c) Records of the continuous operation of VCI systems and all inspection, testing, and repair activities shall be maintained in accordance with paragraph 62-762.711(3)(b), F.A.C

(d) Storage tank systems with VCI protection systems that have been determined by a Corrosion Professional that the VCI system requires replenishing shall:

1. Be replenished or replaced within 90 days in and be retested within 90 days from the date of replenishment; or
2. Be closed in accordance with subsection 62-762.801(2), F.A.C.

(All proposed revisions in this sub-section are intended to provide the option of using vapor corrosion inhibitor technologies that perform a similar function to cathodic protection by using a different approved technology. For USTs, VCI's can be used in piping sumps, metallic interstitial spaces, and the ullage of metallic double-wall USTs)

(3) Operation and maintenance.

(a) Integrity testing.

1. The integrity of ~~the~~ secondary containment ~~systems~~ and interstitial spaces ~~of small diameter piping installed after the effective date of the rule~~ shall be verified by performing an interstitial or containment integrity test in accordance with manufacturer's specifications or PEI/RP1200-12. ~~The integrity of containment sumps with capacities less than 500 gallons that are installed after the effective date of the rule shall be verified by performing a containment integrity test. Small diameter piping installed after the effective date of the rule~~ Secondary containment systems that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection are exempt from this requirement. The interstitial or containment integrity tests shall be performed by January 1, 2020, and every five years thereafter. The interstitial spaces of double-wall underground tanks and single~~in accordance with the following schedule:~~

- a. ~~Double-walled storage tanks shall be tested by January 1, 2015, and every five years thereafter;~~



- ~~b. The interstice of double-walled integral piping by January 1, 2015, and every five years thereafter;~~
- ~~c. Below grade piping sumps by January 1, 2015, and every five years thereafter;~~
- ~~d. Below grade dispenser sumps by January 1, 2015, and every five years thereafter;~~
- ~~e. Double-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter;~~
- ~~f. Single-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter; and~~
- ~~g. Single-walled storage tanks or integral piping installed within liners are exempt from this requirement.~~

(This requirement is an example of making a problem out of something that is not a problem. Breach of Integrity testing has limited value on USTs because it often induces leaks and damages storage tank systems. B.O.I. tests create a great additional risk for regulatory-induced discharges. Double-wall underground tanks and piping usually have very small interstitial spaces that are very susceptible to damage from over pressure or vacuum. Additionally, these systems are not designed to have periodic interstitial integrity tests, and the depth or presence of groundwater is not always factored in to the testing parameters by the B.O.I testing company. If an area has a high ground water table, the added weight of the water over the tank could and has caused the failure of the interstitial space if the additional pressure is not accounted for. It is recommended that integrity testing be performed only at the time of installation for small diameter piping and system containment components installed after the effective date of the rule, and that the facility rely on the presence of liquids in the interstice for release detection. This change would enable manufacturers to properly design for the testing of the piping. Given the FDEP Leak Autopsy study data that shows piping as a significant risk and problem for releases, it makes sense to limit B.O.I.'s to piping and not include USTs. There is no cost-benefit to this onerous requirement, and the risk of causing new leaks is not worth the requirement for breach of integrity testing. Also, the Department has no data showing that double-wall USTs are failing (except perhaps for after a B.O.I.)

2. If using hydrostatic testing for the interstitial or containment integrity test, it shall be performed by filling the secondary containment system with water to a marked level four inches above the highest penetration of the side wall of the containment equipment, with the exception of spill containment systems which shall be filled to a level within 1.5 inches of the top of the bucket. The secondary containment system shall be deemed tight if the water level remains stationary for a three hour period.

3. Any integrity test that indicates that the component is not tight shall be reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(b) Water removal.

1. Spill containment systems, interstitial spaces, dispenser sumps, and piping sumps shall be maintained to provide access for examination and water removal. Water in excess of one inch in depth, **or water levels above the lowest side-wall penetration of a below-ground containment sump,** or any regulated substance collected in secondary containment, spill containment systems, or in piping sumps and dispenser sumps shall be removed within 72 hours of discovery and be either reused or properly disposed.

(This addition confirms inspector policy of ignoring any water in a sump that does not adversely affect the ability of the release detection to work.)

2. Petroleum Contact Water. Petroleum contact water from storage tank systems shall be managed in accordance with Chapter 62-740, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 3-12-91, Formerly 17-761.700, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.710 Recordkeeping.

(1) All records shall be dated, maintained in permanent form, and available for inspection by the Department or County. If records are not kept at the facility, they shall be made available at the facility or another agreed upon location upon five working days of the Department's request notice. ~~Site access to the facility shall be provided for~~



compliance inspections conducted at reasonable times.

- (2) Records of the following are required to be kept for ~~three~~**five** two years:

(Three years synchronizes with the three year inspection schedule of the Department and the Energy Act of 2005)

- (a) Measurements and reconciliations of inventory, as applicable;
- (b) Repair, operation, and maintenance records;
- (b)(c) ~~All~~ Release detection results, including electronic test results, regardless of the frequency, and monthly visual inspections performed in accordance with paragraph 62-761.600(1)(e) 62-761.640(2)(e), F.A.C. The presence of a regulated substance's odor, sheen, or free product shall be recorded for each sampling event;
- (c)(d) All test data and results gathered during annual operability tests and integrity tests Release detection response level descriptions; and
- (d)(e) A copy of all test data and results gathered during tightness tests, pressure tests, and breach of integrity tests, and the name and type of the test approved under Rule 62-761.850, F.A.C.;
- (f) ~~Certification of Financial Responsibility on Form 62-761.900(3);~~
- (g) Records of the types of fuels stored per tank,; and
- (h) ~~The repair or replacement of gaskets, valve packings, valves, flanges, and connection/disconnection fittings for bulk product piping if the repair or replacement is performed in response to a discharge or loss of regulated substances.~~

(3) Records of the following, generated after July 13, 1998, shall be maintained until for the life of the storage tank system closure:

- (a) Manufacturer's instructions for operation, maintenance, and testing for release detection equipment Results of internal inspections and non-destructive testing;
- (b) Any performance claims for release detection equipment described in writing by the equipment manufacturer or installer;
- (c) Records of storage tank system installations, replacements, recertifications, and upgrades;
- (c)(d) Records of installation, maintenance, inspections, and testing of cathodic protection systems in accordance with NACE standards;

(d) Records of installation, maintenance, inspections, and testing of vapor corrosion inhibitor protection systems in accordance with Corrosion Professional recommendations;

(Includes requirements needed to demonstrate the effectiveness of the corrosion control provided by the vci technology)

- (d)(e) Record drawings ("as-builts") as specified in paragraph 62-761.500(1)(h), F.A.C. Site suitability determinations in accordance with subsection 62-761.640(2), F.A.C.;
- (e)(f) A copy of all INFs, and the results of all incident investigations as specified in Rule 62-761.430, F.A.C. Vapor monitoring plans and all records kept pursuant to the plan;
- (f)(g) A copy of all DRFs Closure assessment reports if the location continues as a facility; and
- (g)(h) A copy of all Closure Reports, as referenced in paragraph 62-761.210(2)(c), F.A.C., if the location continues as a facility Verification from a Certified Contractor of the existence of a single check valve beneath the suction pump for suction piping systems.

(4) Records to demonstrate financial responsibility shall be maintained until storage tank system closure.

Rulemaking Specific Authority 376.303, 376.322(3) FS. Law Implemented 376.303, 376.322 FS. History--New 12-10-90, Formerly 17-761.710, Amended 9-30-96, 7-13-98, ~~Repromulgated~~ 6-21-04, _____.

62-761.800 Out-of-Service and Closure Requirements.

- (1) Out-of-service storage tank systems.

(a) General.

1. Storage tank systems that are taken out-of-service, as required in this subsection as defined in subsection 62-761.200(40), F.A.C., shall continue to be maintained in accordance with this Chapter unless otherwise noted herein.



2. Facility owners and operators of out-of-service storage tank systems shall:
- Continue to operate and maintain corrosion protection in accordance with subsection paragraph 62-761.700(2)(4)(b), F.A.C.;
 - Perform external release detection for sites without contamination, as applicable, every six months in accordance with provisions of subsection 62-761.640(2), F.A.C.;
 - Leave vent lines open and functioning;
 - Remove all regulated substances so that no more than one inch in depth **or 0.3 percent by weight** of regulated substances remains in the storage tank ~~Empty the system and cap or secure all lines, pumps, manways, and ancillary equipment, as applicable; and~~
 - Secure or close off the system to outside access.

(Current rule is not a problem, and 0.3 is in the current rule)

32. Facility owners and operators of out-of-service storage tank systems shall monitor the interstice and the liquid level in the storage tank annually ~~but not to exceed 12 months~~. Records of these inspections shall be maintained in accordance with subsection 62-761.710(2), F.A.C. In the event that liquid in excess of one inch in the storage tank or any liquid in the interstice is discovered, **facility owners and operators must follow the procedures for suspected incidents**~~an INF must be submitted in writing or electronic format and an investigation as to the cause performed~~ pursuant to Rule 62-761.430, F.A.C. If the storage tank system is required to be upgraded during the time that it is out of service, it shall be upgraded or replaced in accordance with this chapter before it is returned to service.

(Department's proposed language compels an INF, while the suggested revision requires following procedures for suspected incidents. It's not an incident until after the investigation)

43. Release detection device annual operability testing, containment and **interstitial** integrity testing, and annual overfill protection device testing are not required while the system is properly out-of-service. All aforementioned testing shall be up-to-date in accordance with this Chapter and indicate proper operation before adding regulated substances to the storage tank system. In addition, storage tank systems **installed after the effective date of the rule** that have been out-of-service for more than ~~two years~~**365 days** shall perform interstitial integrity testing of the storage tank and **small diameter** integral piping before adding regulated substances to the storage tank system. Systems with secondary containment installed and operated in accordance with this chapter may remain in a continuous out of service status for ten years. After this period, the system shall be returned to service or closed in accordance with subsection 62-761.800(2), F.A.C.

(This requirement for interstitial integrity testing should be eliminated for existing systems, but if the tank has been out of service for two years without monthly release detection then a B.O.I. could be performed for tanks and piping installed after the effective date of the rule that have been properly designed to have safe interstitial integrity testing.)

54. Storage tank systems with secondary containment shall only be designated as out-of-service for a maximum of ten continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with subsection 62-761.800(2), F.A.C. Tightness, pressure, or other tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., as applicable, on any systems being returned to service.

(b) Before being returned to service, the following tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., for systems that are taken out of service for more than 180 days:

1. A tightness test for single-walled systems; or
2. A breach of integrity test for double-walled Category C systems.

(c) Single-walled systems that are taken out of service shall not be kept out of service longer than two years for corrosion-protected systems or one year for unprotected bare steel systems. After the end of these time periods, the systems shall either be upgraded or permanently closed.

(2) Closure of storage tank systems.

(a) The following storage tank systems must be closed within 90 days in accordance with the provisions of this subsection:~~General:~~



1. A storage tank system that is out-of-service or has not had regulated substances added to or withdrawn from the system for more than ~~Closure of storage tank systems shall be performed by:~~

- a. Two years for single-walled storage tank systems; or ~~Removing all liquids and accumulated sludges;~~
- b. Ten years for storage tank systems with secondary containment. ~~Disconnecting and capping, or removing, all integral piping. Manways shall be secured to prevent access;~~
- c. ~~Closing the storage tank system in accordance with paragraphs 62-761.800(2)(b), F.A.C., as applicable; and~~
- d. ~~Conducting a closure assessment in accordance with subsection 62-761.800(3), F.A.C.~~

2. A storage tank system that fails to meet the requirements of Rule 62-761.500, F.A.C. After closure, storage tank systems may be used to store materials or substances other than regulated substances in accordance with all applicable Department reference standards, (for example, API 1604). Owners and operators are advised that other federal, state, or local requirements may apply to these activities.

3. A storage tank system that requires repair pursuant to Rule 62-761.700, F.A.C., but cannot be repaired to operate in accordance with the requirements of this Chapter. Monitoring wells associated with closed systems that are not being used for release detection or site assessment purposes shall be closed in accordance with paragraph 62-761.600(1)(k), F.A.C.

(b) Closure of storage tank systems shall be performed by: ~~Unmaintained systems shall be permanently closed within 90 days of discovery.~~

(c) System removal, closure in place, and disposal shall be performed:

1. Properly closing monitoring wells associated with closed systems that are not being used for site assessment purposes; In accordance with API RP 1604 and NFPA 30; and

2. Removing or disconnecting and capping all integral piping; By a Certified Contractor if the system is removed from the ground, unless it is closed in place by filling it with a solid inert material of sufficient density to prevent a structural collapse of the closed system.

3. Removing and disposing of a storage tank by a Certified Contractor, or in-place closure by filling the storage tank with a solid inert material of sufficient density to prevent a structural collapse of the closed storage tank, which shall be in accordance with the following documents hereby adopted and incorporated by reference, and available from the addresses given. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, and Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C). In lieu of in-place closure or removal, a storage tank may be used to store liquids other than regulated substances in accordance with API RP 1604. Owners and operators are advised that other federal, state, or local requirements apply that regulate these activities; and

4. Conducting a Closure Evaluation and preparing a Closure Report, as referenced in paragraph 62-761.210(2)(c), F.A.C., in accordance with subsection 62-761.800(3), F.A.C.

(c) The removal and disposal of all liquids and accumulated sludges may be required according to other local, state, and federal requirements.

(3) Closure Report and Evaluation Requirements, as referenced in paragraph 62-761.210(2)(c), F.A.C. Closure assessment of storage tank systems.

(a) Closure Report ~~At time of closure, replacement, installation of secondary containment, or change in service from a regulated substance to a non-regulated substance, an assessment shall be performed to determine if a discharge from the system or system components has occurred.~~

1. A Closure Report is always required and shall be completed in accordance with the Department's "Storage Tank System Closure Guidelines - Closure Evaluation Guidance," specified in paragraph 62-761.210(2)(c), F.A.C., at the time of closure, replacement, installation of secondary containment, repairs performed because of an operational or structural problem that could potentially result in a release, or change in service from a regulated substance to a non-regulated substance for tanks, integral piping, and other system components in contact with the soil. If a Site Rehabilitation Completion Order (SRCO) or a Monitoring Only Plan (MOP) Approval Order has been issued by the Department for a contaminated area of a site, a closure assessment shall be performed for any subsequent storage tank system removal, replacement, or installation of secondary containment.

2. A Closure Report (including a Closure Evaluation, as required), shall be submitted in writing or electronic format to the County within 60 days of completion of any of the activities listed in subparagraph 62-761.800(3)(a)1., F.A.C. Tanks, pipes, or other system components in contact with soil at any site are subject to closure assessment requirements.

(b) Closure Evaluation. In addition to a Closure Report, all storage tank systems in contact with the soil must perform a Closure Evaluation according to the Department's "Storage Tank System Closure Guidelines - Closure



Evaluation Guidance” specified in paragraph 62-761.210(2)(c), F.A.C. A closure assessment is not required for:

1. Sites with documented contamination requiring a site assessment in accordance with Chapter 62-770, F.A.C., including those that are eligible for the Early Detection Incentive Program (EDI), the Florida Petroleum Liability and Restoration Insurance Program (FPLRIP), and the Petroleum Cleanup Participation Program (PCPP), pursuant to Sections 376.3071 and 376.3072, F.S. Nevertheless, documentation of procedures followed and results obtained during closure shall be reported in a Limited Closure Summary Report, Form 62-761.900(8), and in accordance with Section A of DEP’s “Storage Tank System Closure Assessment Requirements”;

2. Systems initially installed with secondary containment, provided that no unexplained positive response of an interstitial release detection device or method occurred during the operational life of the system, or the secondary containment passed a breach of integrity test prior to closure; and

3. Systems upgraded with secondary containment that have closed interstitial spaces, where a closure assessment was performed prior to installation of secondary containment, provided that the secondary containment passed a breach of integrity test in accordance with paragraph 62-761.640(3)(a), F.A.C.;

(c) Closure assessment sampling and analysis shall be conducted according to DEP’s “Storage Tank System Closure Assessment Requirements.”

(d) A closure assessment report shall be submitted to the County within 60 days of completion of any of the activities listed in paragraph 62-761.800(3)(a), F.A.C. The report shall include sample types, sample locations and measurement methods, a site map, methods of maintaining quality assurance and quality control, and any analytical results obtained during the assessment in accordance with DEP’s “Storage Tank System Closure Assessment Requirements.”

(e) Persons are advised that contaminated soil excavated, disposed of, or stockpiled on site during the closure of a storage tank system is regulated by Chapter 62-770, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.30716 FS. History–New 12-10-90, Formerly 17-761.800, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.820 Incident and Discharge Response.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.820, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.850 Alternative Procedures Requirements and Equipment Registration Approvals.

(1) Alternative procedure requirements.

(a) Any person subject to the provisions of this Chapter may request in writing a determination by the Secretary or the Secretary’s designee that any requirement of this Chapter shall not apply to a regulated storage tank system at a facility, and shall request approval of alternative ~~alternate~~ procedures or requirements.

(b) On Form 62-761.900(4), Alternative Requirement or Procedure Form, effective date, *(the effective date of the rule)*, hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

The request shall set forth at a minimum the following information:

1. The specific storage tank system or facility for which an exception is sought;
2. The specific provisions of this Chapter 62-761, F.A.C., from which an exception is sought;
3. The basis for the exception;
4. The alternative procedure or requirement for which approval is sought;
5. Documentation that demonstrates that the alternative procedure or requirement provides an equivalent or greater degree of protection for the lands, surface waters or groundwaters of the State as the specific provisions of this Chapter from which an alternative procedure is sought ~~established requirement~~; and
6. Documentation that demonstrates that the alternative procedure or requirement is at least as effective as the established procedure or requirement.
7. If an alternative ~~alternate~~ procedure or requirement is not able to be sought under subparagraph 5. or 6., then documentation that demonstrates that the specific provisions of this Chapter from which the exception is sought imposes regulatory costs on the regulated entity that could be reduced through approval of a less costly regulatory alternative or requirement that provides a substantially equivalent degree of protection for the lands, surface waters,



or groundwaters of the State as the established requirement.

(c) The Department shall issue an Order either: Within 60 days of the receipt of a request for approval of an alternative procedure or requirement, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(1), F.A.C., are met.

1. Approving the request with any conditions necessary to meet the requirements of paragraph 62-761.850(1)(b), F.A.C.; or

2. Denying the request and stating the reason(s) the request does not make an adequate demonstration that the requirements of paragraph 62-761.850(1)(b), F.A.C., have been met.

(d) ~~The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S. The Secretary or the Secretary's designee shall specify by order each alternative procedure or requirement approved for an individual storage tank system or facility in accordance with this rule or shall issue an order denying the request for such approval.~~

(e) The provisions of this Rule do not preclude the use of any other applicable relief provisions.

(2) Registration of storage tank system equipment and release detection systems and methods ~~Equipment~~ approvals.

(a) Owners and operators shall verify at the time of installation that the storage tank system equipment and release detection systems and methods (including equipment and methods that were previously approved by the Department under the former Equipment Approval process) have been registered with the Department. Storage tank system equipment used in the State of Florida must have the approval of the Department before installation or use, with the exception of:

(b) Any storage tank system equipment installed after *(the effective date of the rule)* must be registered with the Department in accordance with this section. Upon discovery, non-registered storage system equipment installed after *(the effective date of the rule)* must be removed within 90 days, unless registration is obtained and listed within the 90 day time period.

(c) Equipment previously approved by the Department under the former Equipment Approval process and installed prior to *(the effective date of the rule)* can continue to be used regardless of later non-renewal or removal of registration from the list of registered storage tank system equipment, provided the equipment is still operating as designed.

(d) Only the storage tank system equipment as stated in this Chapter shall be registered by the equipment manufacturer using Form 62-761.900(3) Storage Tank System Equipment Registration Form, effective date, *(the effective date of the rule)*, hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>. The following storage tank system equipment is exempt from registration:

1. Dispensers, dispenser islands, nozzles, and hoses;
2. ~~Monitoring well bailers;~~
3. Manhole and fillbox covers;
4. Valves and ball float valves;
5. Cathodic protection test stations;
6. ~~Metallic bulk product piping;~~
7. Small diameter integral piping not in contact with soil, unless the integral piping extends over or into surface waters; and
8. Vent lines.

7. Gauges used for vacuum and pressure monitoring

(e)(b) Registration ~~Equipment approval~~ requests shall be submitted to the Department in writing or electronic format with a demonstration that the equipment will ~~provide equivalent protection or~~ meet the appropriate performance ~~requirements standards~~ contained in this Chapter. Any approvals or denials received from other states or countries shall be included in the registration approval request to the Department.

(f)(e) A third-party demonstration by a Nationally Recognized Testing Laboratory shall be submitted in writing or electronic format to the Department with the application. The third-party demonstration shall provide:

1. A technical evaluation of the equipment;
2. Test results that verify that the equipment will function as designed; ~~and~~
3. A professional certification or determination that the equipment meets the performance



requirements standards contained in this Chapter; Rule 62-761.500, F.A.C.

4. Integrity test requirements and procedures; and

5. Annual operability testing procedure for the equipment or release detection system or method.

(g)(d) Release detection methods and tank and piping tightness and pressure testing methods must be registered in accordance with this subsection and be listed with the National Work Group On Leak Detection Evaluations, <http://www.nwglde.org/>, prior to being used. Within 60 days of the receipt of a request for an equipment approval, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(2), F.A.C., are met.

(h)(e) The storage tank system equipment and release detection systems and methods registered with the Department under this subsection must be renewed every five years. Failure to renew will result in removal from the equipment registration list. Any changes, improvements, or modifications to equipment beyond the scope of the original demonstration by the Nationally Recognized Testing Laboratory will require a renewal of the registration and a new demonstration from a Nationally Recognized Testing Laboratory pursuant to paragraph 62-761.850(2)(f), F.A.C. The Secretary or the Secretary's designee shall specify by order each equipment approval that is approved in accordance with this rule or shall issue an order denying the request for such approval. The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S.

(i) The Department shall place conditions upon the use of the storage tank system equipment and release detection systems and methods, remove equipment or methods from the list of registered storage tank system equipment, or not renew registration based on the information submitted to the Department in accordance with this subsection or if the equipment does not perform in field application as certified in the third party certification by a Nationally Recognized Testing Laboratory.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.850, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.900 Storage Tank Forms.

The forms used by the Department in the Storage Tank System Program are adopted and incorporated by reference in this section. The forms are listed by form rule number, ~~which is also the form number, and with the subject title,~~ and effective date. Copies of forms are available ~~may be obtained~~ by writing to the ~~Administrator, Storage Tank Regulation Section,~~ Florida Department of Environmental Protection, Division of Waste Management, 2600 Blair Stone Road, M.S. 4500 4525, Tallahassee, Florida 32399-2400, or at or online at: www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(1) Form 62-761.900(1) Discharge Report Form, (the effective date of the rule) July 13, 1998.

(2) Form 62-761.900(2) Storage Tank Facility Registration Form, (the effective date of the rule) July 13, 1998.

(3) Form 62-761.900(3) Storage Tank System Equipment Registration Form, (the effective date of the rule)

Certification of Financial Responsibility, July 13, 1998.

(4) Form 62-761.900(4) Alternative Requirement or Procedure Form, (the effective date of the rule) July 13, 1998.

(5) Form 62-761.900(5) Underground Storage Tank Installation and Removal Form for Certified Contractors, (the effective date of the rule) July 13, 1998.

(6) Form 62-761.900(6) Incident Notification Form, (the effective date of the rule) July 13, 1998.

(7) ~~Monthly Statistical Inventory Reconciliation (SIR) Report, July 13, 1998.~~

(8) ~~Limited Closure Summary Report Form, July 13, 1998.~~

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.900, Amended 9-30-96, 7-13-98, Repromulgated 6-21-04, _____.

STEEL TANK INSTITUTE

January 28, 2014

Florida Dept. of Environmental Protection
Attention: William E. Burns Jr.
2600 Blair Stone Road
Tallahassee, FL 32399-2400

RE: UST System Rules, Chapter 62-761, F.A.C.
AST System Rules, Chapter 62-762, F.A.C.

Dear Mr. Burns:

STI/SPFA is a trade association representing fabricators of atmospheric underground and aboveground storage tanks used for storage of petroleum, water, and chemicals, fabricators of pressure vessels, and fabricators of large steel potable water pipe. The Steel Tank Institute is specifically involved with storage systems described in your Florida regulations Chapters 62-761 and 62-762.

Chapter 62-761, Underground Storage Tank Systems

62-761.200 Definitions

~~(5) "Cathodic Protection Tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure to soil potential, and component electrical isolation measurements of buried metal piping and tank.~~

(10) "Corrosion Professional" means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal components of a storage tank system. Corrosion Professionals shall be accredited or certified by NACE International as a Cathodic Protection Specialist or Corrosion Specialist, or be a professional engineer licensed registered in the State of Florida.

We agree with the definition provided in paragraph (10), and we feel that Cathodic Protection Specialists and Corrosion Specialists certified by NACE or Professional

A DIVISION OF STI/SPFA

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Engineers are properly qualified to engage in the practice of corrosion control.

However, the testing of cathodic protection systems, and in particular galvanic anode cathodic protection systems, do not require that same level of certification. Testers go in the field to verify adequate cathodic protection exists on a tank or pipe. Testers do not design systems or perform retrofit. We feel a definition of cathodic protection tester should remain.

Further, in 2006, we suggested that FL DEP reference the STI Certification program for cathodic protection testers as an alternate to the NACE program. STI has certified approximately 475 testers throughout the country and these individuals are posted on our web site at http://www.steeltank.com/EducationEvents/EducationandEvents/tabid/481/Agg1320_SelectTab/1/Default.aspx. A number of States have adopted the STI Certification program specifically within their regulations. We would be happy to provide you with contact information. We suggest that the definition of "cathodic protection tester" remain as modified below:

(10) "Cathodic Protection Tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons shall be certified as a STI cathodic protection tester or a NACE cathodic protection tester.

62-761.200

c. 3. Any field-installed cathodic protection system shall be designed and installed by or under the direction of a Corrosion Professional.

We suggest the addition of an STI Standard to this section, STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs as this RP fulfills the requirements of c.3 specifically for the STI sti-P3 cathodic protected tank.

62-761.210 Reference Requirements Standards

(j) Steel Tank Institute (STI), 570 Oakwood Road, Lake Zurich, Illinois 60047, (847) 438-8265, or at <https://www.steeltank.com/>:

- 1. sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013; and**
- 2. Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006.**

We wish to thank the Department for its reference to industry standards, including the standards of Steel Tank Institute. In all locations where STI standards and recommendations are referenced, we suggest our address be updated to our current location.

Steel Tank Institute, 944 Donata Ct. Lake Zurich, IL 60047.

Also, our publications get updated regularly, and we have attached a list of our current standards and RP's that can be included.

The EPA federal regulations reference Steel Tank Institute standard ACT-100. Many underground steel storage tanks installed in Florida were built to this standard and it remains a useful reference. We recommend its inclusion as a reference.

[ACT-100® Specification for External Corrosion Protection of FRP Composite Steel USTs - F894](#)

In 2006, STI published a recommended practice for testing cathodic protection of UST's with galvanic cathodic protection and another recommended practice for addition of supplemental anodes to sti-P3 tanks. In 2011, due to the proliferation of new fuels and fuel formulas, STI published a new recommended practice for tank maintenance.

STI R051-06 [Cathodic Protection Testing Procedures for sti-P3 UST's \(R051\)](#)

STI R972, [Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs](#)

STI R111, [Storage Tank Maintenance \(R111\)](#)

62-761.500 Performance Standards for Category C Storage Tank Systems Requirements.

(c) Cathodic protection.

3. Any field-installed cathodic protection system shall be designed and installed by or under the direction of a Corrosion Professional.

Add a statement to c3 that "supplemental anodes added to the sti-P3 tank can be installed according to STI R972, [Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs](#)."

(d) Double-walled steel tanks coated with a fiberglass reinforced plastic composite shall be constructed in accordance with UL 58 and UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

We recommend the addition of the ACT-100 standard to paragraph (d).

[ACT-100® Specification for External Corrosion Protection of FRP Composite Steel USTs - F894](#)

Paragraph (d) precludes the use of jacketed tanks. These are steel tanks with an outer non-metallic tank that provides both corrosion protection and secondary containment. These tanks are built to UL 1746. We suggest the following addition, perhaps as a new paragraph (e).

[\(e\) Jacketed steel tanks shall be constructed in accordance with UL 1746, or certified by a Nationally Recognized Testing Laboratory, that these requirements are met.](#)

62-761.430 Incidents.

(1) Incidents include:

(a) The following positive responses of release detection devices or methods described in Rule 62-761.600, F.A.C.:

1. Any visual inspection of a storage tank system that reveals signs of corrosion, cracks, structural damage, leakage, or other similar problems;

And

62-761.600 Release Detection Requirements ~~Standards~~.

(1) General requirements.

... (e) Visual inspections. Every component of a storage tank system that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of a storage tank system that reveals signs of corrosion, cracks, structural damage, leakage, or other similar problems is considered a positive response.

The use of the word "signs" is very non-specific. Steel tanks and pipe can show rust, that might meet the phrase "a sign of corrosion," but such rust can be surface in nature and not threatening the performance of the steel or suggestive of a release.

Cracks, excessive deflection, tank bottom flattening, and delamination can be seen within FRP storage tanks and plastic sumps. No mention is made of these precursors to failure and a release.

With internal linings and some plastic components and tanks, there are incompatible issues that can be visually inspected, such as blistering and linings that are no longer adhered to the inside of the tank or storage system component.

We suggest the paragraph be revised as follows:

(e) Visual inspections. ~~Any Every~~ component of a storage tank system ~~that contains, transfers, or stores, or is designed to contain, transfer, or store pollutants~~ that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of ~~any component~~ a storage tank, ~~system, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances~~ that reveals ~~pitting corrosion with more than a fifty percent loss of its original design thickness, or cracking, splitting, blistering, delamination, softening, excessive deflection, tank bottom flattening signs of corrosion, cracks,~~ structural damage, leakage, or other similar problems ~~with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C. is~~ considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. Repairs shall be made in accordance with Rule 62-761.700, F.A.C. A ~~monthly~~ visual inspection is not required for any system component using an electronic release detection method, ~~but piping sumps must be visually inspected every six months and records kept of the visual inspection~~ ~~At least once a month, but not exceeding 35 days, any storage tank and component of a storage tank that can~~

~~be inspected visually shall be visually inspected in accordance with paragraph 62-761.640(2)(e), F.A.C. A visual inspection is not required for any system component that has a continuous or monthly electronic release detection sensor. Continuous electronic leak detection devices shall be inspected for proper operation on a monthly basis. Inspection may consist of visual observation or remote verification of proper operation.~~

62-761.700 Repairs, Operation and Maintenance of Storage Tank Systems.

(b) Inspection and testing requirements.

1. Storage tank systems equipped with cathodic protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year, or every three years for factory-installed (galvanic) cathodic protection systems, thereafter in accordance with the criteria contained in NACE International Standards SP0169-2007 and SP0285-2011, as applicable. All cathodic protection systems shall either have permanent test stations for soil-to-structure potential measurements or use temporary field test stations for required testing in accordance with this subparagraph.

Add STI R051-06 [Cathodic Protection Testing Procedures for sti-P3 UST's \(R051\)](#) as an additional test method for testing sti-P3 tanks. Steel Tank Institute has performed over 100,000 tests on sti-3 tanks. STI was instrumental in revising NACE tank cathodic protection testing procedures for underground storage tanks, especially tanks with galvanic anodes. The STI R051 needs to be referenced.

(d) Storage tank systems with cathodic protection systems that have been determined by a Corrosion Professional [Cathodic Protection Tester](#) that the cathodic protection system cannot achieve or maintain protection levels in accordance with the design criteria shall:

- 1. Be repaired within 30 90 days in accordance with subparagraph 62-761.700(2)(b)1., F.A.C., or**
- 2. Be closed in accordance with subsection 62-761.800(2), F.A.C.**

A corrosion professional generally doesn't review test reports. A cp tester alone will test and pass/fail a system. 30 days is not adequate time to have a system repaired. 90 days is more appropriate.

Chapter 62-762, Aboveground Storage Tank Systems

Field Erected Storage Tank vs. Shop-Fabricated Storage Tanks

It is our understanding that at the public hearing, several comments were made suggesting that FL DEP incorporate a separate set of regulations of shop-fabricated storage tanks from field erected aboveground storage tanks. The following comments are intended to provide input as to the primary difference between these categories to assist with rulemaking.

A tank is shop-fabricated if it can be built in a completed status, and shipped to the job site in one piece. Most tanks are shipped by highway, and therefore normally limited to 12' diameter, unless special permit and transportation method can be provided. Most tank capacities less than 70,000 gallons in capacity are shop-fabricated, and then installed by a contractor, normally separate from the fabricator. Appurtenances are normally mounted at the job site by the installer.

Steel Tank Institute represents fabricators of both shop-fabricated and field erected storage tanks. There is minimal overlap of standards for each type of tank, but there is some overlap. Tanks built to construction standards published by UL, STI, or SwRI are almost exclusively shop-fabricated. Tanks built to API can be either field erected or shop-fabricated. For example, API 12F and Appendix J of API 650 are construction requirements for shop-fabricated tanks. Most of the specification requirements within API 650 (atmospheric) and API 652 (for low pressure) are field erected

Shop-fabricated tanks are built in different orientations – horizontal cylindrical on supports, rectangular, or vertical cylindrical on grade or on supports. Field erected atmospheric storage tanks are almost exclusively of vertical cylindrical orientation. The fabricator is often the “installer” of the tank erection itself, although site preparation, the foundation, and appurtenances may be handled by others.

There is some overlap from industry inspection standards as well. The STI SP001 standard covers nearly all shop-fabricated storage tanks, but also covers small field erected tanks, up to about 250,000 gallons. There is no lower limit on API 653 tank inspections, although it is considered the exclusive inspection standard for field erected tanks greater than 250,000 gallons. When the SP001 standard was revised, the committee overseeing its development felt that small field erected tanks had similar design traits as shop-fabricated tanks, hence the inclusion of smaller field erected storage tanks in the SP001 inspection standard.

Within Steel Tank Institute, we govern fabricators as different sections within the association. Our Field Erect Tank Section is a separate section than our Shop-Fabricated Tank Section. For the most part, the markets are considerably different due to the different standards used and due to the size of the tank.

62-762.201 Definitions

We noticed that a number of definitions differ from EPA SPCC terminology. Industry doing business in different states normally seek consistency in definitions so as to avoid confusion with industry standards. Steel Tank Institute has several comments and suggestions. In particular, the rule seems to use secondary containment and tank liner interactively. We have attached additional comments in Appendix A to this letter.

762.211 Reference Requirements Standards

(j) Steel Tank Institute (STI), 570 Oakwood Road, Lake Zurich, Illinois 60047, (847) 438-8265, or at <https://www.steeltank.com/>:

1. Standard for the Inspection of Aboveground Storage Tanks, SP001, 5th Edition, Revised 2011.

2. Standard for Repair of Shop Fabricated Aboveground Tanks, SP031, 4th Edition, November 2008.

3. Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, R892, Revised January 2006.

4. Installation Instructions for Shop Fabricated Aboveground Storage Tanks for Flammable, Combustible Liquids, R912, Revised October 2010.

5. Standard for Aboveground Tanks with Integral Secondary Containment, F921 Revised January 2013.

We wish to thank the Department for its reference to industry standards, including the standards of Steel Tank Institute. In all locations where STI standards and recommendations are referenced, we suggest our address be updated to our current location.

Steel Tank Institute, 944 Donata Ct. Lake Zurich, IL 60047.

Also, our publications get updated regularly, and we have attached a list of our current standards and RP's that can be included. Three aboveground tank types built to STI standards that are built by multiple tank fabricators and installed in the State of Florida are the Fireguard tank, the Flameshield tank, and the Generator Base Tank. None of these standards are currently referenced. A list of additional STI standards is attached to this letter.

6. Flameshield® Standard for Fire Tested Tanks, F001, January 2013, Published by Steel Tank Institute, 944 Donata Court, Lake Zurich, Illinois 60047.

7. Fireguard: Specification for Fireguard Protected Aboveground Storage Tanks, F941, December, 2012, Published by Steel Tank Institute, 944 Donata Court, Lake Zurich, Illinois 60047.

8. Generator Base Tanks: Standard for Aboveground Tanks Used as a Generator Base Tank, F011, May, 2012, Published by Steel Tank Institute, 944 Donata Court, Lake Zurich, Illinois 60047.

62-762.501 Storage Tank Systems Requirements

(b) Secondary Containment

- 7. An interstitial integrity test shall be performed on double-walled or double-bottomed storage tanks after it is delivered to or constructed at the facility and before the storage tank is placed into service. This test shall be performed in accordance with Recommended Practices for Installation of ~~Underground~~ Aboveground Liquid Storage Systems, ~~PEI/RP100-11, 8th Rev., 2011 Edition~~ RP200 – 13, 2013 Edition, Recommended Practices for Overfill Protection of aboveground Storage Systems RP600 – 2012, 2012 Edition, Recommended Practices for Installation of Bulk Storage Systems RP 800, 2013 Edition, and Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition, Petroleum Equipment Institute (PEI) Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380, hereby adopted and incorporated by reference and available from the address given.**

The referral to PEI RP 100 is incorrect, as it applies to underground storage tanks. The appropriate reference should be PEI RP 200, as it is appropriate for AST's. We also

suggest that PEI RP 600 and RP 800 be referenced as RP's for overfill prevention and for installation of Bulk Storage Systems. Overfill was previously shown to be the most common cause of release from shop-fabricated aboveground storage tanks. Bulk storage systems typically install vertical AST's where good release detection prevention measures can be obtained from a combination of secondary containment tanks, release prevention barriers, and spill control devices.

62-762.411 Notifications

(3) For internal inspections, Steel Tank Institute (STI) SP001 Standard for Inspection of Aboveground Storage Tanks, 5th Edition, 2011 and Tank Inspection, Repair, Alteration, and Reconstruction, API Std 653, 4th Edition, April 2009, includes Addendum 1 (2010), Addendum 2 (2012), September, 2003, and Addendum 2, and piping integrity testing, Piping Inspection Code: In-service Inspection, Repair, and Alteration of Piping Systems, API 570, 3rd Edition, November 2009, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, hereby adopted and incorporated by reference and available.....

The STI Standard, SP001, also requires internal inspections for tanks up to 250,000 gallons in capacity. A similar reference to SP001 should also be considered.

(b) Storage tank construction requirements

1. Storage tanks shall be constructed in accordance with one of the following:

STI standards on Fireguard, Flameshield, and Generator Tanks may also be referenced here. See suggestions we made above for section 762.211.

62-762.601

(e) Visual inspections

We recommend revision similar to the section of the same material in the Underground Storage Tank rule, 62-761.600, and as we proposed above.

62-762.XXX Various Sections

There are various requirements within these proposed regulations for visual inspections, integrity testing, and other ongoing maintenance activities of aboveground storage tanks. But there are no inclusions to allow such activity to be performed in accordance with nationally recognized industry standards such as API 653 and STI SP001. If FL DEP's intention is to require inspections of AST's to be similar with EPA SPCC requirements, we suggest the following language be included:

Evaluation and testing of shop-fabricated tanks.

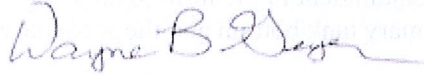
Shop-fabricated tanks shall be evaluated, and their testing frequency established and implemented, in accordance with STI SP001. Evaluations shall be certified by a professional engineer licensed registered in the State of Florida, or approved by STI SP001 certified inspector. Non-destructive testing shall be performed by qualified personnel as specified in STI SP001.

January 30, 2014

Storage tanks shall be inspected and tested at a frequency established in accordance with STI SP001 and maintained for the life of the tank.

Thank you for giving Steel Tank Institute an opportunity to comment on the regulations. The changes are quite extensive, and after we have had a greater opportunity to learn more about the rule and to see it implemented, we wish to reserve the ability to make further comment in the future.

Very truly yours,



Wayne Geyer, P.E.
Executive Vice-President

Enclosure

APPENDIX A

62-762.201 Definitions

(12) “Day tank” means a storage tank system component in close proximity to an engine to provide a reliable supply of fuel.

- A day tank is a tank containing the amount of fuel used by a generator in a 24-hour period.

(17) “Double-bottomed” means an AST that has secondary containment in the form of an outer tank bottom having a closed interstitial space between the primary tank bottom and the secondary outer tank bottom.

(18) “Double-walled” means a storage tank system component that has an outer tank wall, or integral piping that has an outer wall that provides secondary containment.

- Florida DEP Approval Process of Double Wall Storage Tanks requires double wall tanks to have approved spill containment, overfill protection, and interstitial release detection. Further, EPA SPCC regulations require overfill protection on double wall tanks installed without additional diking. The FL AST regulation needs to clearly define this requirement.

(35) “Interstitial monitoring” is a method of release detection in which the interstice is monitored

- This definition uses the term itself. The term should be defined using alternative words.

(36) “Liner” means an impervious material that meets the performance requirements of subparagraph 62-762.501(1)(b)2, F.A.C., that is used externally as a method of secondary containment.

- Florida’s definition of a liner indicates that the liner itself will provide full secondary containment. Sometimes a liner will be placed under the tank floor as a release prevention barrier to prevent seepage into soil, but it may not provide containment of a tank’s full liquid content unless it is extended up to hold such volume. This conflicts with the Federal EPA’s definition.

(38) “Mobile tank” is:

- (a) An AST that is moved to a different location at least once every 180 days; and
 1. Has a current valid vehicle registration with the Florida Department of Highway Safety and Motor Vehicles and has current test and inspection markings in accordance with 49 C.F.R. 180.415; or
 2. Is designed and constructed to be moved to other service locations, and its relocation within a facility or from site to site is inherent in its use.
- (b) An AST that is used for on-site construction activities, provided that the construction activities do not exceed 12 months, or the life of the construction project as long as construction is continuous, and the tanks are removed from the site when the construction is complete.
- (c) An AST is not considered mobile if it is connected to stationary underground or aboveground integral piping, unless associated with the production of an agricultural

commodity, provided that the tank is moved to a different location at least once every 180 days;

- **Add language stating that AST's which bear UL or API labels are not to be used as Mobile Tanks.**

(58) "Secondary containment" means a release detection and discharge prevention system that meets the performance requirements of paragraph 62-762.501(1)(b) ~~62-762.501(1)(e)~~, F.A.C., and includes dispenser sumps ~~liners~~, piping sumps, spill containment systems, the outer wall of double-walled tanks and integral piping systems, ~~or single-walled tanks or piping systems that are contained within a~~ or the liner or an impervious containment area surrounding single-walled tanks or integral piping. ~~A Release Prevention Barrier, as specified in API Standard 650, Appendix I, is considered secondary containment for field-erected aboveground storage tank~~

- See comments above about liners providing full secondary containment. EPA SPCC rules for secondary containment state:

(2) Construct all bulk storage tank installations (except mobile refuelers and other non-transportation-related tank trucks) so that you provide a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation. You must ensure that diked areas are sufficiently impervious to contain discharged oil. Dikes, containment curbs, and pits are commonly employed for this purpose. You may also use an alternative system consisting of a drainage trench enclosure that must be arranged so that any discharge will terminate and be safely confined in a facility catchment basin or holding pond.

APPENDIX B **STEEL TANK INSTITUTE** **SPECIFICATIONS, STANDARDS AND RECOMMENDED PRACTICES**

REVISED DATE	DESCRIPTION
UST SPECIFICATIONS	
September 2013	sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks
September 2013	ACT-100® Specification for External Corrosion Protection of FRP Composite Steel USTs
September 2013	ACT-100-U® Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks
January 2013	Specification for Permatank®
January 2006	Cathodic Protection Testing Procedures for sti-P3® USTs
AST SPECIFICATIONS	
January 2013	F921® Standard for Aboveground Tanks with Integral Secondary Containment
January 2013	Flameshield® - Standard for Fire Tested Tanks
December 2012	Specification for Fireguard® Protected Aboveground Storage Tanks
September 2012	Standard for Aboveground Tanks Used as a Generator Base Tank
October 2010	Installation Instructions for Shop Fabricated Aboveground Storage Tanks for Flammable, Combustible Liquids
RECOMMENDED PRACTICES, STANDARDS, SPECIFICATIONS & MISC DOCUMENTS	
January 2006	RP for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems
December 2010	RP for the Addition of Supplemental Anodes to sti-P3 USTs
January 2006	Standard for Dual Wall Underground Steel Storage Tanks
September 2011	Standard for Inspection of Aboveground Storage Tanks, 5th Edition
November 2008	Standard for Repair of In-Service Shop Fabricated Aboveground Tanks for Storage of Combustible and Flammable Liquids
December 2011	Standard for Tanks Storing DEF
July 2011	Storage Tank Maintenance
January 2009	F911® Standard for Diked Aboveground Storage Tanks (DAST)

NOTE: Tank Tech comments are in BLUE font, and proposed rule changes are in RED

CHAPTER 62-761 UNDERGROUND STORAGE TANK SYSTEMS

62-761.100	Intent
62-761.200	Definitions
62-761.210	Reference <u>Requirements Standards</u>
62-761.300	Applicability
62-761.350	<u>Operator Training and Certification</u> (Reserved for Rulemaking)
62-761.400	Registration and Financial Responsibility
62-761.405	<u>Notification</u>
62-761.420	<u>Financial Responsibility</u>
62-761.430	<u>Incidents</u>
62-761.440	<u>Discharges</u>
62-761.450	<u>Notification and Reporting</u> (Repealed)
62-761.500	<u>Storage Tank System Requirements Performance Standards for Category C Storage Tank Systems</u>
62-761.510	<u>Performance Standards for Category A and Category B Storage Tank Systems</u> (Repealed)
62-761.600	Release Detection <u>Requirements Standards</u>
62-761.610	<u>Release Detection Methods</u> (Repealed)
62-761.640	<u>Performance Standards for Release Detection Methods</u> (Repealed)
62-761.700	Repairs, Operation and Maintenance of Storage Tank Systems
62-761.710	Recordkeeping
62-761.800	Out-of-Service and Closure Requirements
62-761.820	<u>Incident and Discharge Response</u> (Repealed)
62-761.850	Alternative Procedures Requirements and Equipment <u>Registration Approvals</u>
62-761.900	Storage Tank Forms

62-761.100 Intent.

(1) The purpose of this Chapter is to provide requirements standards for the ~~registration, construction, installation, operation, maintenance, repair, closure, and disposal of~~ underground storage tank systems that store regulated substances, in order and to minimize the occurrence and environmental risks of releases and discharges. This Chapter provides requirements standards for underground storage tank systems having individual storage tank capacities greater than 110 gallons.

(2) No change.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.100, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.200 Definitions.

All words and phrases defined in Sections 376.301 and 376.79, F.S., shall have the same meaning when used in this chapter unless specifically stated otherwise in this chapter. See Sections 376.301 and 376.79, F.S., for definitions of the following terms: “Contaminant (contamination shall mean the same as contaminant),” “Contaminated site,” “Department,” “Discharge,” “Facility,” “Hazardous substances,” “Operator,” “Owner,” and “Pollutants.” The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings: ~~The following words, phrases or terms used in this chapter, unless the context indicates otherwise, shall have the following meaning:~~

(1) No change

(2) “Biofuel” means fuel produced from renewable resources, especially plant biomass, vegetable oils, and treated municipal and industrial wastes. ~~“AST” means an aboveground storage tank.~~

(3) “Bulk product piping” means on-site integral piping with an internal diameter greater than three inches that is utilized for transporting regulated substances.

~~(3)~~(4) “Cathodic protection” means a method of preventing corrosion of a metal surface by making that surface the cathode of an electrochemical cell through the use of devices such as galvanic anodes or impressed current.

(5) “Cathodic Protection Tester” means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping

and tank systems. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure to soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

~~(4)(6)~~ “Certified Contractor” means a Pollutant Storage System Contractor certified by the Department of Business and Professional Regulation in accordance with Chapter 489, F.S. *Except for the exemptions specified in Chapter 489, F.S., Certified Contractors are not required for activities that do not involve excavating or disturbing the backfill around UST systems. Certified Contractors are the only contractors authorized to perform the following activities for underground pollutant storage tank systems:*

(a) Installation of:

1. USTs or integral piping, excluding drop tubes;

2. Overfill protection and spill containment;

3. Secondary containment;

4. Internal release detection devices;

5. Cathodic protection systems; and

6. Dispenser liners when the integral piping is connected or disconnected during the installation of secondary containment.

(b) Removal of tanks or integral piping; and

(c) Internal lining of tanks.

This language makes it easier for owners to understand and should remain in the rule.

(5) “Certified Contractors Form” means Underground Storage Tank Installation and Removal Form for Certified Contractors 62-761.900(5).

~~(6)(7)~~ “Chlorine” includes organic and inorganic compounds that are liquids at standard temperature and pressure that, when discharged, may release free chlorine (Cl₂) or chlorides (Cl⁻).

(7) “Closure Evaluation” means the investigation at the time of closure, replacement, installation of secondary containment, repairs performed because of an operational or structural problem that could potentially result in a release, or change in service from a regulated substance to a non-regulated substance for tanks, integral piping, and other system components that are in contact with the soil to determine if there has been a discharge.

(8) “Closure Report” is a document that contains the Closure Evaluation, as applicable, and a description of the closure activities and the condition and integrity of the storage tank system or storage tank system component at the time of closure, replacement, installation of secondary containment, ~~repairs performed because of an operational or structural problem that could potentially result in a release,~~ or change in service from a regulated substance to a non-regulated substance for tanks, integral piping, and other system components that are in contact with the soil.

The Language is too subjective and needs to be removed so it won’t include minor repairs

~~(9)(8)~~ “Compatible” means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the storage tank system under conditions likely to be encountered in the storage tank system.

~~(9)~~ “Contamination” or “contaminated” means the presence of regulated substances in surface water, groundwater, soil, sediment, or upon the land, in quantities result in exceedances of applicable cleanup target levels specified in Chapter 62-770, F.A.C., where petroleum or petroleum products are present, or water quality standards in Chapter 62-3, 62-302, or 62-550, F.A.C.

(10) “Corrosion Professional” means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal components of a storage tank system. Corrosion Professionals shall be accredited or certified by NACE International as a Cathodic Protection Specialist or Corrosion Specialist, or be a professional engineer licensed registered in the State of Florida.

(11) “County” means a locally administered program under contract with the Department to perform compliance verification activities at facilities with storage tank systems within the boundaries stipulated in the applicable contract.

~~(12)(13)~~ “Day tank” means a storage tank system component in close proximity to an engine to provide a reliable supply of fuel.

(12) “Discharge” includes, but is not limited to, any ~~spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substance which occurs and which affects lands and the surface and ground waters of the state.~~

(13) “Discovery” means:

(a) ~~Either actual knowledge or knowledge of facts that could reasonably lead to actual knowledge of the existence of an incident, release, or discharge, or an unmaintained storage tank system; or~~

(b) ~~Discovery as specified in the Petroleum Contamination Site Cleanup Criteria subsection 62-770.200(10), F.A.C.~~

(14) “Dispenser” means a dispensing system that is used to transfer vehicular fuel from a fixed point to a vehicle.

(15) “Dispenser liner” means a liner installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(14) “Dispenser sump” means a storage tank system component installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(15)(16) “Dispensing system” or “Dispenser” means equipment that is used to transfer regulated substances from integral piping through a rigid or flexible hose to a vehicle or portable container or pipe to another point of use outside of the storage tank system.

(16)(17) “Double-walled” means a storage tank system component that has an outer tank wall, or integral piping that has an outer wall that provides secondary containment of the primary tank or piping.

(17) “DRF” means Discharge Report Form 62-761.900(1).

(20) “Empty” means all regulated substances have been removed so that no more than one inch in depth or 0.3 percent by weight of total system capacity of regulated substances remains in the storage tank system.

This definition needs to stay and gives owners an option

(19) “Existing contamination” means:

(a) The presence of free product or sheen on the groundwater;

(b) The presence of vapor levels in monitoring wells measured in accordance with DEP’s “Guidelines for Vapor Monitoring” or by a Flame Ionization Detector or an equivalent instrument in excess of:

1. 500 parts per million total petroleum hydrocarbons for storage tank systems containing gasoline or equivalent petroleum products; or

2. 50 parts per million total petroleum hydrocarbons for storage tank systems containing kerosene, diesel or other equivalent petroleum products;

(c) Results of analytical tests on a groundwater sample that:

1. Exceed the cleanup target levels for petroleum products’ contaminants of concern specified in Table I of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

(d) After July 13, 1998, results of analytical tests on a soil sample that:

1. Exceed the lower of direct exposure residential and leachability based on groundwater criteria cleanup target levels for petroleum products’ contaminants of concern specified in Table II of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above.

(20) “Facility” means a nonresidential location containing, or that contained, any stationary tank or tanks containing, or that contained regulated substances, and that have, or had, individual capacities greater than 110 gallons for UST systems.

(18)(21) “Free product” means the presence of nonaqueous phase liquid in the environment a regulated substance in excess of 0.01 foot in thickness, measured at its thickest point, floating on water, surface water or groundwater.

(22) “Hazardous substances” means those substances defined as hazardous substances in the Comprehensive

Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(24) “High viscosity” means a pollutant with a viscosity of 30 centistokes (cSt) and higher at 40 degrees Centigrade.

(25) “Hydraulic lift tank” means a tank that holds hydraulic fluid for a closed loop mechanical system used to operate lifts, elevators, and other similar devices.

~~(19)~~(26) “Hydrostatic test” means a containment integrity test for a ~~storage tank or~~ storage tank system component that is performed in accordance with this Chapter using equilibrium and the pressure of liquids ~~to test the integrity of the tank or system component.~~

~~(20)~~(27) “Impervious” means:

~~(a) a synthetic material or another material registered in accordance with subsection 62-761.850(2), F.A.C., that is compatible with the stored regulated substance, and has a permeability rate to the regulated substance stored of 1×10^{-7} cm/sec or less; or,~~

~~(b) For concrete structures, a material that:~~

~~1. Meets the design and construction standards of ACI 350R-89 and ACI 224R-89; or~~

~~2. Is applied to the concrete in accordance with NACE International Standard RP0892-92~~

~~(21)~~(28) “In contact with the soil” means any portion of a storage tank system, that physically touches the soil or, if not in direct contact with the soil, is separated from the soil only by a casing, wrapping, or other material that is not impervious, integral piping connected to USTs, or any portion of a tank, that:

~~(a) Physically touches the soil; or~~

~~(b) Is not in direct contact with the soil, and is separated from the soil only by a casing, wrapping, or other material that is not impervious.~~

~~(c) Those portions of integral piping that are elevated and that are not in direct contact with the soil are excluded from this definition.~~

~~(22)~~(29) “Incident” is a condition or situation indicating that a release or discharge may have occurred from a storage tank system.

~~(23)~~ “INF” means Incident Notification Form 62-761.900(6).

~~(24)~~(30) “In-service” means a storage tank system that is being actively operated and that contains greater than one inch or 0.3% by weight of regulated substance. ~~is being actively maintained and operated in accordance with this Chapter. Non-compliance with any specific rule within this Chapter does not exclude the system from being considered “in service.” Subject to the above, a storage tank system is also considered to be in-service if it:~~

~~(a) Contains regulated substances or has regulated substances regularly added to or withdrawn from the system;~~

~~(b) Is emptied solely for the purpose of cleaning, routine maintenance, or a change in product, for a time period not exceeding 45 days; or~~

~~(c) Contains non-regulated substances and is still maintained in an in-service status at the request of the owner or operator.~~

This requirement is not causing any problems and should not be removed from the rule

~~(25)~~(31) “Integral piping” means on-site piping, originating or terminating at the regulated storage tank or tanks, that conveys regulated substances. Integral piping, not including vapor recovery lines and vent lines, includes all valves, elbows, joints, flanges, pumps, and flexible connectors, up to the:

~~(a) Union of the piping with the dispensing system;~~

~~(b) Fill cap or fill valve; or~~

~~(c) Forwarding pump used for transferring regulated substances to a flow-through process tank or an industrial production or manufacturing point of use; or~~

~~(d) First flange or connection within the loading rack containment area.~~

~~(26)~~ “Integrity test” means a determination of the liquid tightness of a storage tank system component using one of the following types of tests:

~~(a) “Interstitial integrity test” means an evaluation of the interstitial space in a double-walled storage tank system component using vacuum, pressure, liquid level monitoring systems, or equivalent test methods certified by~~

a Nationally Recognized Testing Laboratory; or

(b) “Primary integrity test” means an evaluation of the liquid tightness of the primary tank or integral piping.

(c) “Containment integrity test” means an evaluation of the liquid tightness of the piping sumps, dispenser sumps, and spill containment systems.

~~(32) “Internal lining” means a material that is applied internally on USTs to protect the tank from internal corrosion.~~

(27) “Interstice” means the space between the primary and secondary wall of a storage tank system component.

~~(28)(33) “Interstitial monitoring” is a method of release detection in which the interstice is monitored, release detection method that is used to determine the presence of regulated substances or water between the primary and secondary containment. Interstitial monitoring can be performed within:~~

~~(a) A closed interstitial space between two steel or impervious barriers that are sealed, not open to the atmosphere, and designed to be tested for a breach of integrity of the interstitial space; or~~

~~(b) An open interstitial space between two steel or impervious barriers that are open to the atmosphere, and not designed to be tested for a breach of integrity of the interstitial space.~~

~~(34) “Liner” means an impervious material that meets the performance standards of paragraph 62-761.500(1)(d), F.A.C., that is used externally as a method of secondary containment.~~

~~(29)(35) “Maintenance” means the normal operational upkeep in accordance with Rule 62-761.700, F.A.C., to prevent a storage tank system from releasing or discharging regulated substances.~~

~~(30)(36) “Nationally Recognized Testing Laboratory” means an international or national organization or governmental entity that can perform quantitative and qualitative tests on storage tank system equipment, evaluate the test data and equipment performance, and make determinations of the equipment’s capability of meeting the technical requirements standards of this Chapter. A Nationally Recognized Testing Laboratory shall have at least five years of professional storage tank system equipment testing experience. **Nationally Recognized Laboratories include organizations such as Underwriter’s Laboratories, Carnegie Mellon Research Institute, Southwest Research Institute, Midwest Research Institute, Ken Wilcox Associates, Factory Mutual, and American Board of Engineering and Technology (ABET) Accredited Universities.**~~

This language needs to stay to help equipment manufacturers like us and others to know who is acceptable to the Department

~~(31) “New” means a storage tank system or system component that is installed after the effective date of this Chapter.~~

~~(32)(37) “On-site” means on the same or geographically contiguous property as the facility regulated under this Chapter, that is under the same ownership or control, and which may be divided by a public or private right-of-way or an easement.~~

~~(33) “Operability test” means a test performed to determine if electronic and mechanical release detection and overfill protection devices or systems are functioning as designed and in accordance with manufacturers specifications.~~

~~(38) “Operational life” refers to the period from the start of installation of the storage tank system to the completion of the closure of the storage tank system in accordance with subsection 62-761.800(2), F.A.C.~~

~~(39) “Operator” means any person operating a facility, whether by lease, contract, or other form of agreement.~~

~~(34)(40) “Out-of-service” means a storage tank system **meeting the requirements in subsection 62-761.800(1), F.A.C., that the owner and operator removes from active operations for an extended period of time that:**~~

~~**(a) Is designated as an out-of-service system by owner or operator notification to the Department on Form 62-761.900(2);**~~

~~**(b) Is empty as defined in subsection 62-761.200(18), F.A.C.; and**~~

~~**(c) Does not have regulated substances transferred into or withdrawn from the tank as specified in subsection 62-761.800(1), F.A.C., for a maximum time of:**~~

~~1. Two years of being taken out of service for USTs; or~~

~~2. **Ten years** of being taken out of service for storage tank systems with secondary containment.~~

The existing language with a few minor changes needs to stay. This has not been a problem, any many of our internal secondary containment customers are in an out-of-service status when we get their business

~~(34)(41)~~ “Overfill” is an incident ~~a release or discharge~~ that occurs when a tank is filled beyond its capacity.

~~(35)~~ “Overfill protection” is a device or method for preventing an incident, release, or discharge from a storage tank during filling of the storage tank system.

~~(42)~~ “Owner” means any person as defined in Section 376.301(23), F.S., owning a facility.

~~(36)(43)~~ “Pesticides” mean any substance or mixture of substances, as defined in 487.201, F.S., intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the Department of Agriculture and Consumer Services by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term “pesticide” does not include any article that:

~~(a)~~ Is a “new animal drug” within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act;

~~(b)~~ Has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or

~~(c)~~ Is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection, means all preparations, products, and substances included in the Department of Agriculture and Consumer Services’ Rule 5E 2.002, F.A.C.

~~(44)~~ “Petroleum” includes:

~~(a)~~ Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and

~~(b)~~ All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph 62-761.200(44)(a), F.A.C.

~~(45)~~ “Petroleum product” means any liquid fuel commodity made from petroleum.

~~(a)~~ Forms of fuel considered to be petroleum products include all fuels known or sold as:

- ~~1.~~ Diesel fuel;
- ~~2.~~ Kerosene;
- ~~3.~~ Gasoline; and
- ~~4.~~ Fuels containing mixtures of gasoline and other products.

~~(b)~~ Forms of fuel excluded from this definition are:

- ~~1.~~ Liquefied petroleum gas;
- ~~2.~~ American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils;
- ~~3.~~ Bunker C residual oils;
- ~~4.~~ Intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher;
- ~~5.~~ Asphalt oils; and
- ~~6.~~ Petrochemical feedstocks.

~~(37)(46)~~ “Pipe” or “piping” means any hollow cylindrical or tubular conveyance through which regulated substances flow.

~~(38)(47)~~ “Piping sump” or “Submersible turbine pump sump” means a storage tank system component ~~liner~~ installed as secondary containment or a monitoring port at the ~~top of a tank or~~ lowest point in the integral piping to detect releases.

~~(48)~~ “Pollutants” includes any “product” as defined in Section 377.19(11), F.S., pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

~~(49)~~ “Pressure test” means a test to determine the integrity of integral piping performed in accordance with subparagraph 62-761.640(5)(a)1., F.A.C.

~~(39)(50)~~ “Pressurized piping” means piping through which regulated substances flow due to a pump that is not located at the dispensing system.

~~(40)(51)~~ “Product” as defined in Section 377.19(11), F.S., means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, used oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

~~(52)~~ “Registered Precision Tank Tester” means a contractor that performs tightness tests on USTs, and small diameter piping connected to USTs, that is registered by the Department of Business and Professional Regulation pursuant to Chapter 489, F.S.

(41) “Registration form” means Storage Tank Facility Registration Form 62-761.900(2).

~~(42)(53)~~ “Regulated substance” means a liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), that is a pollutant or a hazardous substance, or any mixture of the two, when stored in a storage tank UST.

~~(43)(54)~~ “Release” means:

~~(a)~~ A discharge; or

~~(b)~~ a loss of regulated substances from a storage tank system into the system’s secondary containment.

~~(44)(55)~~ “Release detection” means a method of:

~~(a)~~ Determining whether a discharge of regulated substances has occurred; or

~~(b)~~ detecting the presence of regulated substances within a storage tank system’s secondary containment, and/or detecting other conditions or situations indicative of a release or discharge.

~~(56)~~ “Release detection response level” is the point of measurement, calculation, observation, or level that is established for each individual release detection device or method at which an investigation must be initiated to determine if an incident, release, or discharge has occurred.

~~(45)(57)~~ “Repair” means to restore or replace any defective or damaged parts of a storage tank system: in accordance with Rule 62-761.700, F.A.C. Replacement of a non-defective part is not a repair.

~~(46)(58)~~ “Residential storage tank system” means a storage tank system that services a non-commercial building that is used exclusively as a dwelling unit which means a structure that is used as a home or residence by one or more persons who maintain a common household, excluding transient occupancies, is located on property used primarily for dwelling purposes, and the storage and use of regulated substances in the tank is for residential purposes.

~~(47)(59)~~ “Secondary containment” means a release detection and discharge prevention system that meets the performance requirements standards of paragraph 62-761.500(1)(b), F.A.C., and includes dispenser sumps liners, piping sumps, spill containment systems, the outer wall of double-walled tanks and integral piping, or the liner systems, or single-walled tanks or piping systems that are contained within a liner or an impervious containment area surrounding single-walled tanks or integral piping.

~~(48)(60)~~ “Sheen” means a regulated substance less than or equal to 0.01 foot in thickness, measured at its thickest point, or visibly observed, floating on surface water, groundwater, or within secondary containment.

~~(61)~~ “Significant loss or gain” means the sum of losses and gains of a regulated substance over a 30 day or monthly period that exceeds:

~~(a)~~ For tanks with capacities between 111 and 2,000 gallons with an individual flow through less than 5,000 gallons during the previous 30 days:

1. One percent of the tank capacity; or

2. One percent of the total weekly output; or

3. Fifty gallons, whichever is greatest; or

~~(b)~~ For tanks with capacities greater than 2000 gallons, or tanks with an individual flow through exceeding 5,000 gallons during the previous 30 days:

1. One percent of the tank capacity; or

2. One percent of the amount of product dispensed during the previous 30 days, plus 130 gallons, whichever is greatest.

~~(62)~~ “Small diameter piping” means integral piping with an internal diameter of three inches or less that is utilized for transporting regulated substances.

~~(49)~~ “Spill containment system” means a fixed component that is designed to prevent a discharge of regulated substances from the tank fill pipe.

~~(50)(63)~~ “Storage tank system” means a tank used to contain regulated substances, its integral piping, and all its components, including dispensing systems, spill containment ~~systems devices~~, overfill protection ~~systems devices~~, secondary containment systems, day tanks, and any associated release detection equipment. A storage tank system is a “storage system” as defined in Chapter 376.301, F.S.

~~(51)(64)~~ “Suction piping” means piping through which regulated substances flow due to a pump located at the dispensing system.

~~(52)(65)~~ “Tank” means an enclosed stationary container or structure that is designed or used to store regulated substances, and the volume of which, including the volume of underground piping, is ten percent or more buried beneath the surface of the ground.

~~(66)~~ “Tightness test” means a test for an underground storage tank or its small diameter piping that is performed in accordance with subparagraphs 62-761.640(3)(f)1. and (4)(b), F.A.C., by a precision tank tester registered with the Department of Business and Professional Regulation under Chapter 489, F.S.

(67) “UST” means an underground storage tank.

(68) “UST Category A system” means a system containing pollutants that was installed on or before June 30, 1992, or a system containing hazardous substances that was installed before January 1, 1991.

(69) “UST Category B system” means a system containing pollutants that was installed after June 30, 1992, or a system containing hazardous substances that was installed on or after January 1, 1991, and before July 13, 1998.

(70) “UST Category C system” means a system that was installed on or after July 13, 1998. USTs that are removed and relocated on or after July 13, 1998 are considered Category C systems.

(71) “Unmaintained” means:

(a) A storage tank system that was not closed in accordance with Department rules; or

(b) An out of service storage tank system that is not returned to in-service status within:

1. Two years of its being out of service for USTs; or

2. Ten years of its being out of service for storage tank systems with secondary containment.

(72) “Upgrade” means the addition or retrofit of cathodic protection, internal lining, spill prevention, overfill protection, or secondary containment, to a storage tank system, or the installation of single wall corrosion-resistant storage tanks, to improve the ability of the storage tank system to prevent discharges of regulated substances.

(53) “Valid Registration” means that applicable registration requirements that are specified in Rule 62-761.400, F.A.C., have been met for all regulated storage tank systems at a facility.

(73) “Vehicular fuel” means a petroleum product used to fuel motor vehicles, including aircraft, watercraft, and vehicles used on and off roads and rails.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, 3-8-94, Formerly 17-761.200, Amended 9-30-96, 7-13-98, 6-21-04, ____.

Substantial rewording of Rule 62-761.210, F.A.C., follows. See Florida Administrative Code for present text.

62-761.210 Reference Requirements Standards.

(1) Referenced requirements are available for inspection at the County Offices, and the Department of Environmental Protection’s District and Tallahassee Offices, and directly from the source.

(2) Titles of documents. References to documents listed in paragraphs 62-761.210(2)(a) through (l), F.A.C., below are made throughout this Chapter. Each document or part thereof is adopted and incorporated as a guideline only to the extent that it is specifically referenced in this Chapter. To the extent that the provisions contained in the following reference requirements conflict with this Chapter, the Department’s requirements as stated in this Chapter shall control.

(a) American Petroleum Institute (API), 1220 L Street, N.W. Washington, D.C. 20005, (202) 682-8000, or at <http://www.api.org/>.

1. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996;

2. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011;

3. Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996; and

4. Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006.

(b) ASME International (founded as the American Society of Mechanical Engineers), 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800) 843-2763, or at <http://www.asme.org/>: Process Piping, B31.3-2004, 2012 Edition.

(c) Florida Department of Environmental Protection (DEP), Division of Waste Management, 2600 Blair Stone Road, MS 4500, Tallahassee, Florida 32399-2400, (850) 245-8839: Storage Tank System Closure Guidelines - Closure Evaluation Guidance, or at www.dep.state.fl.us/ (effective date of the rule).

(d) NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, (800) 797-6223, or at <http://www.nace.org/>:

1. Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition; and

2. Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition.

(e) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169-7471,

(800) 344-3555, or at www.nfpa.org/:

1. Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition;
 2. Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C), 2012 Edition; and
 3. Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition.
- (f) National Leak Prevention Association (NLPA), Route 2 Box 106A, Falmouth, Kentucky 41040, (702) 832-2260, or at <http://www.nlpa-online.org/> **National Leak Prevention Association: NLPA Standard 631, "Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage Tanks," Chapter B, 1991.**

This standard needs to stay in the rule for internal secondary containment evaluations

(g) National Institute of Standards and Technology (NIST), NIST, 100 Bureau Drive, Stop 1070, Gaithersburg, MD 20899-1070, (301) 975-NIST (6478), or at <http://www.nist.gov/index.html>.

~~(h) National Work Group On Leak Detection Evaluations (NWGLDE), <http://www.nwglde.org/>.~~

Getting approval for leak detection systems used with internal secondary containment from this non-Florida organization could slow down or create problems with future product or equipment registrations

(i) Petroleum Equipment Institute (PEI), Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918) 494-9696, or at www.pei.org/:

1. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition; and
2. Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition.

(j) Steel Tank Institute (STI), 570 Oakwood Road, Lake Zurich, Illinois 60047, (847) 438-8265, or at <https://www.steeltank.com/>:

1. sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013; and
2. Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006.

(k) Underwriters Laboratories Standards (UL), 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847) 272-8800, or at www.ul.com/:

1. Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition;
 2. Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition;
 3. Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition; and
 4. External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition.
- 5. Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems, UL 1856, 2013 Edition.**

(New Standard UL 1856 should be added for internal secondary containment.)

(l) U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001, (202) 512-1800, or at www.gpo.gov/:

1. Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST), Title 40, Part 280, July 2008; Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001; and
 2. Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001.
- (3) Applicability of Reference Requirements: Unless otherwise specified in this Chapter, facilities installed

before (the effective date of the rule) are subject to the Reference Requirements listed in the Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities installed after (the effective date of the rule) shall comply with this subsection on or after (the effective date of the rule).

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 7-13-98, 6-21-04, _____.

62-761.300 Applicability.

(1) General Requirements.:

~~(a) Underground storage tank systems:~~ The requirements of this Chapter, unless specified otherwise, apply to owners and operators of facilities, and ~~or~~ owners and operators of underground storage tank UST systems with individual storage tank capacities greater than 110 gallons, that contain or contained regulated substances.:

~~1. Vehicular fuel, subject to Chapter 17-61, F.A.C., after May 21, 1984;~~

~~2. Pollutants or hazardous substances after December 10, 1990; or~~

~~3. Regulated substances in unmaintained storage tank systems.~~

~~(b) This rule is applicable to non-residential facilities. Under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal UST rules (advisory information only not required by this Chapter).~~

(2) Exemptions: The following ~~underground systems~~ are exempt from the requirements of this Chapter:

(a) Any storage tank system storing any hazardous waste listed or identified under Subtitle C of the Resource Conservation and Recovery Act, or a mixture of such hazardous waste and other regulated substances;

(b) Any storage tank system regulated under the Toxic Substances Control Act (15 U.S.C. 2065);

(c) Any pesticide waste degradation system regulated under Chapter 62-660, F.A.C.;

(d) Storage tank systems used solely for temporary storage of mixtures of pesticides and diluent for reapplication as pesticides;

(e) Any storage tank system with a storage capacity of less than 30,000 gallons used for the sole purpose of storing heating oil for consumptive use on the premises where stored.

~~(f) Any tank that contains asphalt or asphalt products not containing other regulated substances;~~

~~(g) Any storage tank system storing regulated substances that are solid or gaseous at standard temperature and pressure;~~

~~(h) Any storage tank containing Liquid Petroleum Gas;~~

~~(g)(i)~~ Any storage tank system that:

~~1. Contains a regulated substance at a concentration of less than two percent for pollutants and below the reportable quantities for hazardous substances under 40 C.F.R. 302; and~~

~~2. Was never previously regulated under Chapter 376.30 through 376.309, F.S. or this Chapter; contains small quantities (de minimus, as per 40 C.F.R. Section 280.10(b)(5)) of regulated substances;~~

~~(h)(i)~~ Any storage tank system that contains wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;

~~(i)(k)~~ Any septic tank system;

~~(i)~~ Any stormwater or wastewater collection system, including oil-water separator tanks;

~~(m)~~ Any surface impoundment, pit, pond, or lagoon;

~~(j)(n)~~ Any agricultural storage tank system of 550 gallons capacity or less that is used for agricultural purposes;

~~(k)(o)~~ Any residential storage tank system used solely for residential purposes. However, under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal underground storage tank rules;

~~(l)(p)~~ Any emergency spill or emergency overflow containment storage tank system that is emptied as soon as possible after use, and that routinely remains empty;

~~(q) Any flow-through process tank system. For industrial and manufacturing facilities, integral piping is considered to terminate at the forwarding pump or valve used to transfer regulated substances to process, production, or manufacturing points of use or systems within the facility;~~

~~(m)(r)~~ Any storage tank system, liquid trap, or associated gathering lines directly related to oil or gas production and gathering operations regulated by Chapter 377, F.S.; however, this exclusion does not apply to storage tanks that contain refined products;

~~(n)(s)~~ Any ~~e~~Equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift or fluid tank systems that hold hydraulic fluid for closed-loop mechanical systems used to operate lifts,

elevators, and other similar devices and cooling oil (dielectric fluid) systems used for electrical equipment and electrical equipment tank systems;

(o)(t) Any pipeline, piping and “break-out” tanks directly connected to the pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration, pursuant to Title 49, Parts 190-199 of the Code of Federal Regulations facilities;

(p)(u) Any storage tank system containing radionuclides or that is part of an emergency generator system for nuclear power generation at facilities regulated by the Nuclear Regulatory Commission under 10 C.F.R. Part 50 Appendix A;

(q)(v) Any vVapor recovery holding tanks and associated vapor recovery piping systems; or

(r) Any storage tank system containing biofuel that has a concentration of regulated substance of five percent or less by volume.

(w) Any rail or tanker truck loading or unloading operations (loading racks) specified in Chapter 5 of NFPA 30.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.300, Amended 7-13-98, 6-21-04,_____.

62-761.350 Operator Training and Certification (Reserved for Rulemaking)

62-761.400 Registration and Financial Responsibility.

(1) For installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction begins.

(b) A completed Form 62-761.900(2), Storage Tank Facility Registration Form (Registration Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the Department no later than 10 days after installation notification to the County pursuant to Rule 62-761.405, F.A.C. Copies of the Registration Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(c) A completed Form 62-761.900(5), Underground Storage Tank System Installation and Removal Form for Certified Contractors (Certified Contractors Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the County no later than **2110** days after installation of a storage tank system. Copies of the Certified Contractors Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or, www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

Additional time is needed for completing the paperwork. All states and local governments have different reporting, permitting, and paperwork requirements, and industry needs additional time to complete and manage the effort.

(2) For change in service status or closure pursuant to Rule 62-761.800, F.A.C.:

(a) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days after completion of the change in service status.

(b) A completed Certified Contractors Form shall be submitted to the County in paper or electronic format no later than 10 days after removal of a storage tank system.

(3) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days of the following changes or discovery:

(3) Financial responsibility.

(a) Any change in the owner or operator of a facility or of a storage tank system.

(a) General requirements.

1. The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance. Financial responsibility is only required for tanks containing petroleum or petroleum products. Financial responsibility is the ability to pay for corrective action and third party liability resulting from a discharge at the

facility.

2. ~~The demonstration of financial responsibility shall be made by the owner or operator in accordance with C.F.R. Title 40, Part 280, Subpart H.~~

3. ~~Financial responsibility requirements for petroleum storage systems containing petroleum products may be supplemented by participation in the Florida Petroleum Liability Restoration and Insurance Program to the extent provided by Section 376.3072, F.S.~~

4. ~~Notwithstanding the owner's or operator's financial responsibility status, the owner or operator may, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.~~

(b) Any change or correction in the information reported in the Registration Form. A change within the same blend of regulated substances should not be reported (e.g., regular unleaded to premium unleaded gasoline);

~~(b) The minimum requirements for financial responsibility for USTs containing petroleum or petroleum products shall be the same as provided by C.F.R. Title 40, Part 280, Subpart H.~~

(c) A change from a regulated substance to a non-regulated substance; and

(d) The discovery of an unregistered storage tank system.

~~(1) General registration requirements.~~

~~(a) The owner or operator of any facility, or the owner or operator of a storage tank system shall register the storage tank system with the Department on Form 62-761.900(2).~~

~~(b) A completed registration form shall be submitted to the Department no later than 30 days after regulated or hazardous substances are put into any new storage tank system.~~

~~(4)(2) Registration fees.~~

(a) Registration fees are due from the tank or facility owner or operator, as indicated in this section, for all registered storage tank systems required to be registered. Registration fees except for storage tank systems that have been properly closed in accordance with subsection 62-761.800(2), F.A.C., will no longer be due once any outstanding fees have been paid.

(b) A registration fee of \$50.00 per tank or vessel shall be submitted for each initial registration of a storage tank system. The fee shall be paid within 30 days after receipt of an invoice by the Department.

(c) A renewal fee of \$25.00 per tank shall be paid to the Department for each storage tank system not meeting the closure requirements of subsection 62-761.800(2), F.A.C. by July 1 each year.

(d) A replacement fee of \$25.00 per tank shall be paid to the Department for each tank that is replaced for the purpose of facility upgrading, within 30 days after receipt of an invoice by the Department.

(e) A late fee of \$20.00 per tank shall be paid to the Department for any renewal that is received after July 31.

(f) Upon receipt of payment of all applicable initial registration fees and annual renewal fees, each facility shall receive a valid registration placard, pursuant to Section 376.3077, F.S. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the storage tank system is located. Posted on the Department website will be information regarding those motor fuel facilities who have not timely paid their registration fees. Each facility shall receive a registration placard upon payment of all applicable fees. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the tank is located.

(5) Unless a valid registration placard is displayed in plain view as required by paragraph 62-761.400(4)(f), F.A.C., no motor fuel may be deposited into a storage tank required to be registered pursuant to this Rule. Facility owners, operators and suppliers are each responsible for compliance with this provision.

(6) Revocation of Registration Placard. (Reserved for Rulemaking)

(7) Delivery prohibitions. (Reserved for Rulemaking)

Rulemaking Specific Authority 376.303, 376.322(2) FS. Law Implemented 376.303, 376.309, 376.323, 376.3077 FS. History—New 12-10-90, Formerly 17-761.400, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.405 Notification.

(1) For Installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction will begin.

(b) Notification shall be received by the County in writing or electronic format between 30 and 45 days before installation of a storage tank system or system component unless the County agrees to a shorter time period.

(c) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the installation work to confirm the date and time of the scheduled activities.

(2) For change in service status closure, or closure evaluation:

(a) Notification shall be received by the County in writing or electronic format between 10 and 25 days before the initiation of the work unless the County agrees to a shorter time period.

(b) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the initiation of the work to confirm the date and time of the scheduled activities.

(3) Notification of the discovery of an incident shall be made to the County in writing or electronic format on Form 62-761.900(6), Incident Notification Form (INF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 72 hours; however an INF need not be submitted if, within 72 hours of discovery, the investigation of the incident in accordance with Rule 62-761.430, F.A.C., confirms that a discharge did or did not occur. Copies of the INF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(4) Notification of the discovery of a discharge shall be made to the County in writing or electronic format on Form 62-761.900(1), Discharge Report Form (DRF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 24 hours. Copies of the DRF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.
Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.450, 62-761.450, Amended 9-30-96, 7-13-98, 6-21-04.

62-761.420 Financial Responsibility.

(1) Financial responsibility is the ability to pay for cleanup of a discharge and third-party liability resulting from a discharge of petroleum or petroleum product at the facility.

(2) The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department for all storage tank systems until they are properly closed. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance.

(3) The demonstration of financial responsibility for storage tank systems shall be made available for inspection by the Department or the County and shall be in accordance with Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST) – Financial Responsibility, Title 40, Part 280, Subpart H, July 2008, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, hereby adopted and incorporated by reference, and is available from the address given.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.309 FS. History—New

62-761.430 Incidents.

(1) Incidents include:

(a) The following positive responses of release detection devices or methods described in Rule 62-761.600, F.A.C.:

1. Any visual inspection of a storage tank system that reveals ~~signs of corrosion~~, cracks, structural damage, leakage, or other similar problems;

The “signs of corrosion” language is too vague and subjective. Structural damage should cover any corrosion that is significant.

2. Any visual observation of regulated substances in a piping or dispenser sump;

3. Any alarm that indicates that liquid, vacuum, or pressure monitoring levels are not being maintained, or that liquid ~~other than small amounts of condensate~~ has been detected by a sensor in a normally dry interstice;

Condensate is often present and unavoidable

4. Any visual observation that indicates that liquid monitoring levels are not being maintained;

5. Any vacuum or pressure change of ~~50% 10%~~ from one month to the next, or any cumulative change of vacuum or pressure exceeding ~~50% 10%~~ of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge;

Existing levels in the rule are not practical and not good indicators of a loss of vacuum

6. Any visual inspection that indicates the presence of water ~~other than small amounts of condensate~~ and/or regulated substances in the interstice;

Same as previous comment

7. Any instance where a mechanical line leak detector is restricting flow;

8. Any instance where an electronic line leak detector has shut off power to the pump;

9. Any instance where a monitoring device has shut off the pump; and

10. Liquid in excess of one inch in an out-of-service storage tank.

(b) A failed integrity test for the following components;

1. Double-walled storage tanks;

2. Double-walled integral piping;

3. Piping sumps;

4. Dispenser sumps; and

5. Spill containment systems.

(c) Other unusual operating conditions, such as the erratic behavior of product dispensing equipment, the sudden loss of product from a storage tank system, or any unexplained presence of water in a tank or an interstitial space;

(d) The presence of odors of a regulated substance from surface water or groundwater, soil, basements, sewers and utility lines at a facility; and

(e) The loss of a regulated substance from a storage tank system, such as from an overfill, exceeding 25 gallons on impervious surfaces, other than secondary containment, provided that the loss does not come in contact with pervious surfaces.

(2) If an incident occurs at a facility, actions shall be taken within 24 hours of discovery to investigate the incident to determine if a discharge has occurred.

(3) Notification of the discovery of any incident shall be made to the County in writing or electronic format on an INF within 72 hours. However, an INF is not required to be submitted if, within 72 hours of discovery, the investigation of the incident confirms that a discharge did or did not occur.

(4) In cases where an INF is required to be submitted, the investigation shall be completed within 14 days of the date of discovery of the incident to determine if a discharge has occurred. Incident investigations that require additional time can be extended with the written approval of the Department or the County. However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system shall be placed out-of-service until such time the investigation is completed and resolved.

(5) At the end of the 14 day time period, or at the end of the alternate time period approved by the Department or the County to investigate the incident, either a DRF or a written confirmation and explanation that the incident was not a discharge shall be submitted to the County in writing or electronic format.

(6) The removal of any spill or loss of regulated substance into secondary containment shall be initiated within three days of discovery, and completed within thirty days of discovery.

(7) If a discharge is discovered at any time during the incident investigation, the discharge shall be reported on a DRF within 24 hours of discovery or before the close of the next business day, and a discharge response shall be initiated in accordance with subsection 62-761.440(6), F.A.C.

(8) All incidents, regardless of whether an INF is required to be submitted, shall be documented and records kept until storage tank system closure in accordance with Rule 62-761.710, F.A.C. Test results or reports, which support the investigation findings, shall be maintained as records.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New

62-761.440 Discharges.

(1) Discharges include:

(a) Laboratory analytical results of surface water or groundwater samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C.;

(b) Laboratory analytical results of soil samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C. that exceed the lower of direct exposure residential or leachability based on groundwater criteria cleanup target levels in Chapter 62-777, F.A.C.;

(c) The presence of free product, a visible sheen, sludge, or emulsion of a regulated substance, or a regulated substance that is visibly observed in soil, on or in surface water, in groundwater samples, on basement floors, in open drainage ditches, in open excavations or trenches, in subsurface utility conduits or vaults, or in sewer lines at the facility; and

(d) A spill or overfill of a regulated substance to a pervious surface.

(2) Upon discovery of a discharge, the owner or operator shall report the discharge to the County on a DRF within 24 hours or before the close of the County's next business day.

(3) Copies of laboratory analytical results that confirm a discharge shall be submitted to the County within 24 hours of receipt of the results or before the close of the next business day in writing or electronic format.

(4) A request for a retraction of a submitted DRF shall be submitted to the County or the Department in writing or electronic format if evidence is presented that a discharge did not occur at the facility.

(5) A DRF does not need to be submitted:

(a) For a discharge that was previously reported to the appropriate County on a DRF;

(b) For petroleum or petroleum product de minimis discharges in accordance with Rule 62-780.560, F.A.C., unless the regulated substance has a more stringent reporting requirement specified in the following document which is hereby adopted and incorporated by reference, and is available from the address given: Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001; or

(c) For de minimis discharges in accordance with Rule 62-780.550, F.A.C., unless the pollutant has a more stringent reporting requirement specified in Title 40, Part 302.

(6) Discharge response.

(a) When evidence of a discharge from a storage tank system is discovered, the following actions shall be taken:

1. Fire, explosion, and vapor hazards shall be identified and mitigated;

2. Actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules (e.g., Chapter 62-780, F.A.C., Contaminated Site Cleanup Criteria). Owners and operators are advised that other federal, state, or local requirements apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with Chapter 62-780, F.A.C.;

3. Each component of the storage tank system shall be integrity tested within three days of discovery of the discharge if the source and/or cause of the discharge is unknown;

4. The storage tank system component that is discharging shall be isolated from the system within three days of discovery of the discharge. If the component cannot be isolated from the system, within three days of discovery of the discharge the storage tank system shall not operate, dispense, or accept deliveries, or shall be placed out-of-service in accordance with Rule 62-761.800, F.A.C., until the component can be repaired or replaced;

5. If the storage tank system component that was found to be discharging will be repaired, it shall be repaired in accordance with Rule 62-761.700, F.A.C.;

6. If the storage tank system component that was found to be discharging will be replaced, it shall meet the storage tank system requirements in accordance with Rule 62-761.500, F.A.C.; and

7. If the storage tank system component that was found to be discharging will not be repaired or replaced, the storage tank system, if not already out-of-service, shall be placed out-of-service within 90 days or be closed in accordance with Rule 62-761.800, F.A.C.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New

62-761.450 Notification and Reporting.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.450, Amended 9-30-96, 7-13-98, 6-21-04., Repealed

Substantial rewording of Rule 62-761.500, F.A.C., follows. See Florida Administrative Code for present text.

62-761.500 Performance Standards for Category C Storage Tank Systems Requirements.

(1) General requirements.

(a) Wellhead Protection. Persons are advised that Chapter 62-521, F.A.C., contains restrictions regarding the location of storage tank systems within 500 feet of a potable water well.

(b) Secondary containment.

1. The materials used for secondary containment shall be:

a. Impervious to the regulated substance and able to withstand deterioration from external environmental conditions;

b. Non-corrosive or of corrosion-protected materials; and

c. Of sufficient thickness and strength to withstand hydrostatic forces at maximum capacity to prevent a discharge.

2. For cathodically protected tanks and integral piping, secondary containment systems shall not interfere with the operation of the cathodic protection system.

3. Secondary containment systems shall be designed and installed to direct any release to a monitoring point or points.

4. Containment and interstitial, as applicable, integrity tests shall be performed for all spill containment systems, piping sumps, hydrant sumps, and dispenser sumps before placing the components into initial use. The tests shall be in accordance with manufacturer's requirements. If a hydrostatic test is used, it shall be performed for at least:

a. Twenty-four hours for field-fabricated components; or

b. Three hours for factory-made components.

5. An interstitial integrity test shall be performed on the storage tank after it is delivered to the **or installed at the** facility and before the storage tank is placed into service. This test shall be performed in accordance **with manufacturer's requirements and** with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition, Petroleum Equipment Institute (PEI), Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380, and Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition, Petroleum Equipment Institute (PEI) Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380.

This is an important addition that will require testers to follow manufacturer's protocols and should prevent testers from damaging our customers tanks

6. An interstitial integrity test shall be performed on integral piping in accordance with PEI/RP100-11 and PEI/RP1200-12 before the integral piping is placed into service.

7. An interstitial integrity test shall be performed on double-walled spill buckets or double-walled sumps in accordance with PEI/RP1200-12 before the component is placed into service.

(c) Cathodic protection.

1. Test stations. Cathodic protection systems shall be designed, constructed, and installed with test stations in accordance with NACE standards contained in paragraph 62-761.210(2)(d), F.A.C. Cathodic protection test stations shall provide direct access to the soil in close proximity to each cathodically protected structure for placement of reference electrodes, and monitoring wires that connect directly to cathodically protected structures. Facilities where direct access to soil in close proximity to cathodically protected structures is present, and where electrical connections to cathodically protected structures can be conveniently accomplished, need not have separate dedicated cathodic protection test stations.

2. The cathodic protection system shall be operated and maintained in accordance with subsection 62-761.700(2), F.A.C.

3. Any field-installed cathodic protection system shall be designed and installed by or under the direction of a Corrosion Professional.

4. Cathodic protection is not required for any underground storage tanks with field-fabricated internal secondary containment that is self-structural without any structural support from the host tank.

Tank Tech's Stand-Alone System is approved by the FDEP and is a self-

structural system constructed with non-corrosive materials within a host tank. It is comparable with a UL 1316 tank, and has a UL 1316 listing.

(d) Compatibility. The primary and secondary walls of storage tank systems shall be made of, or internally lined with, materials that are compatible with the regulated substance stored in the storage tank systems and with substances or conditions present in the environment. All storage tank systems containing blends of ethanol, biodiesel, or other biofuels and additives shall be compatible with the regulated substances stored in the storage tank systems.

(e) All components of a storage tank system shall be installed in accordance with the manufacturer's instructions.

(f) All storage tank systems shall be installed in accordance with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070.; Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Process Piping, B31.3-2004, 2012 Edition, ASME International (founded as the American Society of Mechanical Engineers), Published by ASME, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900; and PEI/RP100-11. **Storage tanks with field-fabricated internal secondary containment shall be installed in accordance with manufacturer's specifications, UL 1856, and NLPA 631.**

This is needed for the reference standards associated with our systems.

(g) A Certified Contractor shall perform the installation of storage tank systems containing pollutants, including tanks, integral piping (excluding drop tubes), overfill protection and spill containment equipment, internal release detection equipment, cathodic protection systems, secondary containment systems, and dispensing systems, if the installation of the storage tank system component disturbs the backfill, or where the integral piping is connected or disconnected during installation.

(h) Whenever storage tanks and/or integral piping are installed, modified or relocated after the effective date of this rule, Record Drawings ("as-builts"), signed and sealed by a professional engineer licensed in the state of Florida, shall be completed and maintained as a record in accordance with Rule 62-761.710, F.A.C. The as-built drawing shall include all construction and equipment design specifications including exact dimensions, geometry, and locations of the storage tanks and/or integral piping, of the work completed under contract, and any changes made to the original specifications during the construction process. **As-built drawings are not required for tanks that are installed or retrofitted with internal secondary containment.**

Internal secondary containment systems are installed within the existing footprint of the tank farm and have no effect on the location of the tanks

(2) Storage Tanks.

(a) All storage tanks at a facility shall have secondary containment and shall be constructed or installed to provide for interstitial monitoring of the entire storage tank.

(b) Fiberglass reinforced plastic double-walled tanks shall be constructed in accordance with the following document, Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference and available at the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(c) Cathodically protected double-walled steel tanks shall be:

1. Constructed in accordance with the following documents, or as applicable: Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, and External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and are available from the addresses given;

2. Constructed in accordance with the following document, sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given; or

3. Certified by a Nationally Recognized Testing Laboratory for any field-installed cathodic protection system, that these requirements are met, constructed and designed by a Corrosion Professional in accordance with the following document, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and is available from the address given.

(d) Double-walled steel tanks coated with a fiberglass reinforced plastic composite shall be constructed in accordance with UL 58 and UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(e) Underground storage tanks with field-fabricated internal secondary containment shall be:
1. Installed in accordance with manufacturer's specifications and NLPA 631 and UL 1856;
2. Either be a self-structural design that has no structural contribution from the host tank, or a co-structural design that has shared structural support from the host tank with the retrofit system; and
3. Must be registered in accordance with Rule 62-762.850(2), F.A.C.

Makes it clear to owners and operators that field-fabricated systems are acceptable to the Department.

(e) Double-walled storage tanks that meet the above performance requirements, that are constructed of equivalent material, have an equivalent design, or are corrosion protected shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(f) Tanks shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(g) Double-walled storage tanks that have been removed and that are to be reinstalled at a different location shall:

1. Be recertified that all original warranties are confirmed by the original manufacturer or the manufacturer's successor, and be reinstalled in accordance with the requirements in this section; or

2. Be recertified by a professional engineer licensed in the state of Florida that the storage tank meets all applicable requirements of this section; and

3. Proof of recertification shall be provided to the Department and County prior to the start of installation. The storage tank shall be re-registered in accordance with subsection 62-761.400(1), F.A.C.

(3) Integral piping.

(a) All integral piping, including remote fill piping that is in contact with the soil shall have secondary containment; or

(b) All integral piping that transports regulated substances over surface waters of the state shall have secondary containment and shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials; or

(c) All integral piping that is not in contact with the soil shall meet the construction requirements in paragraphs 62-761.500(3)(d)2. through 4., F.A.C., shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials.

(d) Construction requirements.

1. Fiberglass reinforced plastic integral piping or other non-metallic double-walled integral piping installed in contact with the soil at a facility shall meet the requirements of Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.

2. Coated steel double-walled integral piping shall be constructed in accordance with ASME B31.3. In addition, steel integral piping in contact with the soil shall be cathodically protected in accordance with the following documents: Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070; Control of External Corrosion

on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906; and Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and available from the addresses given.

3. Metallic double-walled integral piping constructed of nonferrous materials such as copper shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, Piping Systems.

4. Integral double-walled piping constructed of other materials, design, or corrosion protection shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(e) Integral piping shall be installed with a slope to a low point monitoring system to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(f) Pressurized integral piping systems connected to dispensers shall be installed with shear valves or emergency shutoff valves in accordance with Section 6.3 of NFPA 30A, Requirements for Dispensing Devices. These valves shall be designed to close automatically if a dispenser is displaced from its normal position. The valves shall be rigidly anchored independently of the dispenser. The valves shall be tested in accordance with PEI/RP1200-12 at the time of installation by a certified contractor to confirm that the automatic closing function of the valve operates properly and that the valve is properly anchored.

(g) All storage tanks located at an elevation that produces a gravity head on the dispenser or on integral piping positioned below the product level in the storage tank must be installed and maintained with an isolation block valve in accordance with Chapter 22.13 of NFPA 30, Tank Openings Other Than Vents, and located as close as practical to the storage tank. In addition, anti-siphon valves for suction and pressurized systems with dispensers that are subject to NFPA 30A, shall be installed and maintained in accordance with Section 11.2 of NFPA 30A, Marine Fueling - Storage. Storage tank systems without dispensers shall be installed with valves that will prevent the tanks from emptying if there is a leak or break in the integral piping.

(4) Spill containment systems.

(a) Storage tank systems shall be installed with a spill containment system at each tank fill connection meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C..

(b) Fillbox covers shall be marked or the fill connection tagged in accordance with Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, hereby adopted and incorporated by reference, and is available from the address given, or with an equivalent method approved by the Department in accordance with subsection 62-761.850(1), F.A.C.

(c) Spill containment systems, including double-walled spill containment systems, shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(5) Dispensing systems and dispenser sumps.

(a) The dispensing system used for transferring fuels from storage tanks to vehicles or portable containers shall be installed and maintained in accordance with the provisions of NFPA 30 and Chapter 6, Fuel Dispensing Systems; Chapter 9, Operational Requirements; and Chapter 11, Marine Fueling of NFPA 30A.

(b) Dispensers shall be installed with a dispenser sump meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C. The dispenser sump shall extend beneath the union of the integral piping and the dispenser, including the shear valve, if applicable.

(c) Dispenser sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. The dispenser sump shall be capable of containing a release for the entire area beneath the dispenser.

(6) Piping sumps.

(a) Piping sumps shall meet the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and be registered in accordance with subsection 62-761.850(2), F.A.C. The sumps shall be designed, constructed, and installed to minimize water entering the sump.

(b) Piping sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(7) Overfill protection.

(a) Owners or operators shall ensure that the volume available in the storage tank is greater than the volume of regulated substances to be transferred to the storage tank before the transfer is made and shall ensure that any transfer is repeatedly monitored to prevent overfilling and spilling.

(b) Storage tank systems shall be equipped with an overfill device that:

1. Automatically shuts off flow to the storage tank when the storage tank is no more than 95% full;
2. Restricts flow to the storage tank when the storage tank is no more than 90% full and does not fill the storage tank beyond 95% capacity. Vent restriction devices such as ball float valves shall not be installed at facilities after *(the effective date of the rule)* unless the storage tank system meets the requirements of Section 7 of PEI/RP 100-11, UST Overfill Equipment Verification, Inspection and Testing; or
3. Alerts the transfer operator when the tank is no more than 90% full by triggering an alarm and does not fill the tank beyond 95% capacity.
- (c) Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.
- (d) Storage tank systems with capacities of 2000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser are exempt from overfill protection requirements provided that the tanks are never filled beyond 80% capacity.
- (e) Overfill devices shall be registered in accordance with subsection 62-761.850(2), F.A.C.
- (f) New day tanks shall be installed with an overfill protection system that returns the regulated substance to the storage tank from the day tank through separate integral piping.
- (g) All new float control valves installed on day tanks and all overfill alarms on storage tanks shall be tested annually at intervals not exceeding 12 months to demonstrate the float control valve or alarm is operating as designed. These records shall be kept for five years in accordance with Rule 62-761.710, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.500, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.510 Performance Standards for Category-A and Category-B Storage Tank Systems

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303-.3072 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.510, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.600 Release Detection Requirements Standards.

- (1) General requirements.
- (a) Storage tank systems shall have a method, or combination of methods, of release detection that:
 1. Can detect a new release from any portion of the storage tank system;
- (b) Any storage tank system without a method, or combination of methods, of release detection in accordance with this section, shall immediately provide a method of release detection, or immediately empty the storage tank system and place the affected system out-of-service, or close the system in accordance with subsection 62-761.800(2), F.A.C.
- (c) Any component of a storage tank system with an interstice shall have a method of interstitial monitoring. *Interstitial monitoring can be performed with vacuum, pressure, hydrostatic (liquid-level sensing), sensors or probes, and visual release detection methods.*

Makes it clear to owners what types of systems they can use.

2. Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability to ensure that the device is functioning as designed; and
3. Meets the applicable performance standards in Rule 62-761.640, F.A.C. All manufacturer's instructions, and the performance claims and their manner of determination described in writing by the equipment manufacturer or installer shall be retained for as long as the storage tank system is used.
- (b) A release detection response level shall be described in writing for each method or combination of methods of release detection used for a storage tank system.
- (c) A release detection method shall be established and provided for all storage tank systems upon installation.
- (d) Except as otherwise specified in this Rule Rules 62-761.600-.640, F.A.C., the release detection method or combination of methods used at a facility shall be performed at least once every a calendar month, but not exceeding 35 days, to determine if a release from the storage tank system has occurred.
- (e) Visual inspections. Every component of a storage tank system that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of a storage tank system that reveals *signs of corrosion*, cracks, structural damage, leakage, or other similar problems is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. Repairs shall be made in accordance

with Rule 62-761.700, F.A.C. A visual inspection is not required for any system component using an electronic release detection method. At least once a month, but not exceeding 35 days, any storage tank and component of a storage tank that can be inspected visually shall be visually inspected in accordance with paragraph 62-761.640(2)(e), F.A.C. A visual inspection is not required for any system component that has a continuous or monthly electronic release detection sensor. Continuous electronic leak detection devices shall be inspected for proper operation on a monthly basis. Inspection may consist of visual observation or remote verification of proper operation.

As previously mentioned, "signs of corrosion" is far too subjective and vague.

(f) Electronic and mechanical release detection devices shall be:

1. Installed, calibrated, operated and maintained in accordance with the manufacturer's instructions and shall be designed and installed to provide service checks for operability to ensure that the device is functioning in accordance with subsection 62-761.700(3), F.A.C.; and

2. Registered in accordance with subsection 62-761.850(2), F.A.C., except that controllers or annunciators that are used to display leak detection test results are not required to be registered. A site suitability determination shall be performed for UST systems by December 31, 1998, in accordance with paragraphs 62-761.640(2)(a)-(d), F.A.C., for storage tank systems using groundwater or vapor monitoring wells for release detection. If the site suitability determination indicates that on-site conditions are unsuitable for external monitoring, another method of release detection must be used.

(g) Electronic release detection devices shall be inspected for proper operation at least once every calendar month, but not exceeding 35 days. A record or summary of the alarm history, sensor status and testing results related to potential releases shall be printed from any electronic release detection device. If the release detection system is not capable of printing records, a manual log shall be maintained of the alarm history, sensor status and testing results. Vapor monitoring plans shall be performed by December 31, 1998, for UST systems, in accordance with paragraph 62-761.640(2)(d), F.A.C., for storage tank systems using vapor monitoring for release detection.

(h) Release detection shall be constructed and installed so that groundwater, rainfall, or soil moisture will not render the release detection method used inoperable. Any component of a storage tank system with secondary containment shall have an interstitial monitoring method meeting the requirements of paragraph 62-761.640(3)(a), F.A.C.

(i) Storage tank systems that store fuel solely for use by emergency power generators shall comply with the release detection requirements of Rule 62-761.600, F.A.C., within 90 days of the effective date of the Rule. Pressurized piping, excluding bulk product piping, shall be equipped with a line leak detector that meets the standards of paragraph 62-761.640(4)(a), F.A.C. Gravity piping systems are exempt from this requirement.

(2) Storage Tanks.

(a) One or more of the following release detection methods shall be used:

1. Liquid level monitoring systems with electronic hydrostatic sensors. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid levels can not be maintained. Any alarm that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Vacuum monitoring. This method shall be able to detect incidents by determining changes in vacuum levels within the interstice by continuous monitoring of vacuum levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if vacuum levels can not be maintained. Any alarm that indicates that vacuum levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

3. Pressure monitoring. This method shall be able to detect incidents by using an inert gas and determining changes in pressure levels within the interstice by continuous monitoring of pressure levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if pressure levels can not be maintained. Any alarm that indicates that pressure levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

4. Electronic sensors in a normally dry interstice. This method shall be able to detect the presence of liquid in the interstice or monitoring low point and to provide immediate electronic notification with an audible or visual

alarm to the owner or operator if liquid is detected. Any alarm that indicates the presence of liquid is considered a positive response, and except for liquids confirmed as small amounts of condensate, the ~~The~~ positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

See previous comments about condensate...

5. Visually inspected liquid level monitoring systems. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir. Any visual observation that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

6. Visually inspected vacuum or pressure monitoring with gauges. This method shall be able to detect incidents by determining changes in vacuum or pressure levels within the interstice.

a. Vacuum or pressure readings shall be able to detect a ~~50~~ **50.40**% change from one month to the next, or any cumulative change of vacuum or pressure exceeding ~~50~~ **50.20**% of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge. Vacuum or pressure refreshment must be performed in accordance with manufacturer's specifications and the system's equipment registration in subsection 62-761.850(2), F.A.C. Any change indicated above is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

See previous comments about vacuum...

b. Liquid-filled gauges shall be calibrated using NIST traceable standards prior to initial operation. The gauges shall be operational at all times.

7. Visual monitoring of normally dry interstices. This method shall be able to detect the presence of liquid at a low point of the interstice. Any presence of water and/or regulated substances in the interstice **other than small amounts of condensate** is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

See previous comments about condensate...

8. Visual monitoring of liners. This method shall be able to detect the presence of liquid at a low point of the liner. The accumulation of water or condensation in the low point of the liner shall not interfere with the ability to detect regulated substances. Any presence of regulated substances in the liner is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(3) Integral piping with secondary containment.

(a) One or more of the release detection methods in subsection 62-761.600(2), F.A.C., shall be used.

(b) In addition, pressurized small diameter integral piping in contact with the soil shall be equipped with a release detection system that can detect a leak within one hour. One of the following methods shall be used:

1. Mechanical line leak detectors. Mechanical line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and restrict flow within one hour. Any instance where the mechanical line leak detector is restricting flow is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Electronic line leak detectors. Electronic line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and shut off power to the pump. Any instance where the electronic line leak detector has shut off power to the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

3. Electronic interstitial monitoring devices. Storage tank systems without line leak detectors, shall have electronic interstitial monitoring devices that are capable of detecting a release of ten gallons within one hour and shutting off the pump. Any instance where the monitoring device has shut off the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and

investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(4) Annual operability testing of release detection systems. All release detection devices shall be tested annually at intervals not exceeding 12 months to ensure proper operation. The test must either simulate an actual alarm condition or shall be conducted according to manufacturer's specifications, and shall include, at a minimum, a determination of whether the device operates as designed. Remote testing of the system can be performed by the manufacturer if the remote test is included in the third party certification by a Nationally Recognized Testing Laboratory.

(5) Records shall be kept for ~~three~~**five** years in accordance with Rule 62-761.710, F.A.C.

Three years for keeping records is consistent with the federal law for inspection frequency.

(j) Any storage tank system not provided with a method, or combination of methods, of release detection in accordance with this section, shall be closed in accordance with subsection 62-761.800(2), F.A.C., by the date upon which release detection is to be provided.

(k) Groundwater and vapor monitoring wells meeting the standards for external monitoring specified in paragraphs 62-761.640(2)(a)-(d), F.A.C., that are no longer used for release detection, shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 2010. Wells not meeting these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are:

1. Used for contamination assessment purposes as specified in paragraph 62-761.600(2)(d), F.A.C.; or
2. Required by rules adopted by a County government in accordance with Section 376.317, F.S.

(2) By December 10, 1990, vehicular fuel petroleum storage tank systems of greater than 550-gallon capacity shall be provided with release detection. Release detection for all other storage tank and integral piping systems in contact with the soil shall be provided by December 31 of the year shown in Table RD.

TABLE RD

Year Storage Tank System Installed	Year Release	Detection Required			
Before 1970 or unknown	P/RD	1991	1992	1993	
1970-1974	P	RD			
1975-1979	P		RD		
1980-1990	P			RD	

P = Installation of Release Detection for Pressurized Piping

RD = Installation of Release Detection for Tanks and Suction Piping.

(3) Effective December 31 of the applicable year specified under the schedule in Table RD, any groundwater monitoring plan or spill prevention control and countermeasure plan implemented before December 22, 1990, shall be capable of detecting the leak rate or quantity specified in paragraph 62-761.640(1)(a), F.A.C.

(4) UST systems that store fuel solely for use by emergency power generators are not required to comply with the release detection standards of Rules 62-761.600 through 62-761.640, F.A.C.

(5) Monitoring wells shall meet the standards of subsection 62-761.640(2), F.A.C., by December 31, 1998. Wells that do not meet these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are required by a rule that was adopted by a County government in accordance with Section 376.317, F.S. However, if a monitoring well is used solely for the purpose of monitoring petroleum contamination in accordance with Chapter 62-770, F.A.C., the well does not have to be closed until the completion of the site rehabilitation pursuant to Chapter 62-770, F.A.C. Covers of leak detection monitoring wells redesignated as site assessment wells by the facility owner or operator shall be colored black with a white circle within the black background. The diameter of the white circle shall be approximately one-half the diameter of the manhole cover, or approximately four inches.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.3072 FS. History—New 12-10-90, Formerly 17-761.600, Amended 7-13-98, 6-21-04, _____.

62-761.610 Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.610, Amended 9-30-96, 7-13-98, 6-21-04, Repealed.

62-761.640 Performance Standards for Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.640, Amended 9-30-96, 7-13-98, 6-21-04, Repealed.

Substantial rewording of Rule 62-761.700, F.A.C., follows. See Florida Administrative Code for present text.

62-761.700 Repairs, Operation and Maintenance of Storage Tank Systems.

(1) Repairs.

(a) Repairs shall be performed, as necessary, if any component of a storage tank system has:

1. A release or contributed to a release of a regulated substance; or
2. **Other than small amounts of condensate, an An** operational or structural problem that could potentially result in a release, or lead to the presence of water in the interstice of a double-walled storage tank or integral piping.

(b) The storage tank system shall immediately cease operating, dispensing, and/or accepting deliveries, if:

1. Repairs are required for any component of a storage tank system; and
2. The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shut down of electrical generating units serviced by the storage tank system.

(c) Repairs shall be made:

1. To restore the structural integrity of the storage tank system and in a manner that will prevent releases or discharges from structural failure or corrosion for the remaining operational life of the storage tank system; and
2. In accordance with manufacturer's specifications and applicable reference requirements.

(d) **If repairs are needed for any primary or secondary tank or piping system walls, or any interstitial spaces of storage tank system components, the repaired** ~~Repaired~~ components shall be integrity tested for liquid tightness before being placed back into operation.

Makes it clear that the testing is only for interstitial spaces, and for repairs associated with interstitial spaces.

(2) Cathodic protection.

(a) Cathodic protection systems shall be operated and maintained to provide continuous corrosion protection to the metal components of those portions of the storage tank and integral piping in contact with the soil.

(b) Inspection and testing requirements.

1. Storage tank systems equipped with cathodic protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year, or every three years for factory-installed (galvanic) cathodic protection systems, thereafter in accordance with the criteria contained in NACE International Standards SP0169-2007 and SP0285-2011, as applicable. All cathodic protection systems shall either have permanent test stations for soil-to-structure potential measurements or use temporary field test stations for required testing in accordance with this subparagraph.

2. Storage tank systems with impressed current systems shall be inspected at intervals not exceeding two months. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 1440 hours in one year shall be immediately taken out-of-service and within 30 days, and assessed by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria.

(c) Records of the continuous operation of impressed current systems and all cathodic protection inspection, testing, and repair activities shall be maintained in accordance with paragraph 62-761.710(3)(c), F.A.C.

(d) Storage tank systems with cathodic protection systems that have been determined by a Corrosion Professional that the cathodic protection system cannot achieve or maintain protection levels in accordance with the design criteria shall:

1. Be repaired within 30 days in accordance with subparagraph 62-761.700(2)(b)1., F.A.C., or

2. Be closed in accordance with subsection 62-761.800(2), F.A.C.

(3) Operation and maintenance.

(a) Integrity testing.

1. The integrity of secondary containment systems and interstitial spaces **of storage tank systems installed after the effective date of the rule** shall be verified by performing an interstitial or containment integrity test in accordance with manufacturer's specifications ~~and/or~~ PEI/RP1200-12. **The test shall be performed after installation and before the system is put into operation, and at any time thereafter if the primary or secondary walls of the storage tank system are repaired before the system is put back into service. Secondary containment systems that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection are exempt from this requirement. The interstitial or containment integrity tests shall be performed accordance with the following schedule:**

~~a. Double-walled storage tanks shall be tested by January 1, 2015, and every five years thereafter;~~

~~b. The interstice of double-walled integral piping by January 1, 2015, and every five years thereafter;~~

~~c. Below grade piping sumps by January 1, 2015, and every five years thereafter;~~

~~d. Below grade dispenser sumps by January 1, 2015, and every five years thereafter;~~

~~e. Double-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter;~~

~~f. Single-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter; and~~

~~g. Single-walled storage tanks or integral piping installed within liners are exempt from this requirement.~~

Improper integrity testing of factory-made USTs and field-fabricated USTs has caused hundreds of tanks to be damaged and has cost the industry hundreds of thousands of dollars. No discharges have been documented, but the potential for contamination is there if a Breach of Integrity Test has been improperly performed. Tank Tech strongly urges DEP to eliminate this dangerous and costly requirement that has caused significant problems and has not provided any post-installation protection to the environment.

2. If using hydrostatic testing for the interstitial or containment integrity test, it shall be performed by filling the secondary containment system with water to a marked level four inches above the highest penetration of the side wall of the containment equipment, with the exception of spill containment systems which shall be filled to a level within 1.5 inches of the top of the bucket. The secondary containment system shall be deemed tight if the water level remains stationary for a three hour period.

3. Any integrity test that indicates that the component is not tight shall be reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(b) Water removal.

1. Spill containment systems, interstitial spaces, dispenser sumps, and piping sumps shall be maintained to provide access for examination and water removal. Water in excess of one inch in depth, or any regulated substance collected in secondary containment, spill containment systems, or in piping sumps and dispenser sumps shall be removed within 72 hours of discovery and be either reused or properly disposed.

2. Petroleum Contact Water. Petroleum contact water from storage tank systems shall be managed in accordance with Chapter 62-740, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 3-12-91, Formerly 17-761.700, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.710 Recordkeeping.

(1) All records shall be dated, maintained in permanent form, and available for inspection by the Department or County. If records are not kept at the facility, they shall be made available at the facility or another agreed upon location upon five working days of the Department's request notice. ~~Site access to the facility shall be provided for compliance inspections conducted at reasonable times.~~

(2) Records of the following are required to be kept for ~~three~~**five** two years:

See previous comment about recordkeeping

- (a) Measurements and reconciliations of inventory, as applicable;
- (b) Repair, operation, and maintenance records;
- ~~(b)(c)~~ All release detection results, including electronic test results, regardless of the frequency, and monthly visual inspections performed in accordance with paragraph 62-761.600(1)(e) 62-761.640(2)(e), F.A.C. The presence of a regulated substance's odor, sheen, or free product shall be recorded for each sampling event;
- ~~(c)(d)~~ All test data and results gathered during annual operability tests and integrity tests Release detection response level descriptions; and
- ~~(d)(e)~~ A copy of all test data and results gathered during tightness tests, pressure tests, and breach of integrity tests, and the name and type of the test approved under Rule 62-761.850, F.A.C.;
- ~~(f)~~ Certification of Financial Responsibility on Form 62-761.900(3);
- ~~(g)~~ Records of the types of fuels stored per tank; and
- ~~(h)~~ The repair or replacement of gaskets, valve packings, valves, flanges, and connection/disconnection fittings for bulk product piping if the repair or replacement is performed in response to a discharge or loss of regulated substances.
- (3) Records of the following, generated after July 13, 1998, shall be maintained until for the life of the storage tank system closure:
 - (a) Manufacturer's instructions for operation, maintenance, and testing for release detection equipment Results of internal inspections and non-destructive testing;
 - (b) Any performance claims for release detection equipment described in writing by the equipment manufacturer or installer;
 - ~~(c)~~ Records of storage tank system installations, replacements, recertifications, and upgrades;
 - ~~(c)(d)~~ Records of installation, maintenance, inspections, and testing of cathodic protection systems in accordance with NACE standards;
 - ~~(d)(e)~~ Record drawings ("as-builts") as specified in paragraph 62-761.500(1)(h), F.A.C. Site suitability determinations in accordance with subsection 62-761.640(2), F.A.C.;
 - ~~(e)(f)~~ A copy of all INFs, and the results of all incident investigations as specified in Rule 62-761.430, F.A.C. Vapor monitoring plans and all records kept pursuant to the plan;
 - ~~(f)(g)~~ A copy of all DRFs Closure assessment reports if the location continues as a facility; and
 - ~~(g)(h)~~ A copy of all Closure Reports, as referenced in paragraph 62-761.210(2)(c), F.A.C., if the location continues as a facility Verification from a Certified Contractor of the existence of a single check valve beneath the suction pump for suction piping systems.
- (4) Records to demonstrate financial responsibility shall be maintained until storage tank system closure.

Rulemaking Specific Authority 376.303, 376.322(3) FS. Law Implemented 376.303, 376.322 FS. History—New 12-10-90, Formerly 17-761.710, Amended 9-30-96, 7-13-98, Repromulgated 6-21-04, _____.

62-761.800 Out-of-Service and Closure Requirements.

- (1) Out-of-service storage tank systems.
 - (a) General.
 - 1. Storage tank systems that are taken out-of-service, as required in this subsection as defined in subsection 62-761.200(40), F.A.C., shall continue to be maintained in accordance with this Chapter unless otherwise noted herein.
 - 2. Facility owners and operators of out-of-service storage tank systems shall:
 - a. Continue to operate and maintain corrosion protection in accordance with subsection paragraph 62-761.700(2)(4)(b), F.A.C.;
 - b. ~~Perform external release detection for sites without contamination, as applicable, every six months in accordance with provisions of subsection 62-761.640(2), F.A.C.;~~
 - c. Leave vent lines open and functioning;
 - cd. Remove all regulated substances so that no more than one inch in depth or 0.3 percent by weight of regulated substances remains in the storage tank Empty the system and cap or secure all lines, pumps, manways, and ancillary equipment, as applicable; and
 - de. Secure or close off the system to outside access.

See previous comment about retaining the 0.3 percent by weight

32. Facility owners and operators of out-of-service storage tank systems shall monitor the interstice and the liquid level in the storage tank annually but not to exceed 12 months. Records of these inspections shall be maintained in accordance with subsection 62-761.710(2), F.A.C. In the event that liquid in excess of one inch in the storage tank or any liquid in the interstice is discovered, **facility owners and operators must follow the procedures for suspected incidents an INF must be submitted in writing or electronic format and an investigation as to the cause performed** pursuant to Rule 62-761.430, F.A.C. If the storage tank system is required to be upgraded during the time that it is out of service, it shall be upgraded or replaced in accordance with this chapter before it is returned to service.

Seems more appropriate to have the owner follow the incident investigation procedure first before submitting an INF.

43. Release detection device annual operability testing, containment and **interstitial** integrity testing, and annual overfill protection device testing are not required while the system is properly out-of-service. All aforementioned testing shall be up-to-date in accordance with this Chapter and indicate proper operation before adding regulated substances to the storage tank system. **In addition, storage tank systems that have been out of service for more than 365 days shall perform interstitial integrity testing of the storage tank and integral piping before adding regulated substances to the storage tank system.** Systems with secondary containment installed and operated in accordance with this chapter may remain in a continuous out of service status for ten years. After this period, the system shall be returned to service or closed in accordance with subsection 62-761.800(2), F.A.C.

See previous comments about removing requirements for post-installation integrity testing.

54. Storage tank systems with secondary containment shall only be designated as out-of-service for a maximum of ten continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with subsection 62-761.800(2), F.A.C. Tightness, pressure, or other tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., as applicable, on any systems being returned to service.

(b) Before being returned to service, the following tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., for systems that are taken out of service for more than 180 days:

1. A tightness test for single-walled systems; or
2. A breach of integrity test for double-walled Category C systems.

(c) Single-walled systems that are taken out of service shall not be kept out of service longer than two years for corrosion-protected systems or one year for unprotected bare steel systems. After the end of these time periods, the systems shall either be upgraded or permanently closed.

(2) Closure of storage tank systems.

(a) The following storage tank systems must be closed within 90 days in accordance with the provisions of this subsection: ~~General.~~

1. A storage tank system that is out-of-service or has not had regulated substances added to or withdrawn from the system for more than ~~Closure of storage tank systems shall be performed by:~~

- a. ~~Two years for single-walled storage tank systems; or Removing all liquids and accumulated sludges;~~
- b. ~~Ten years for storage tank systems with secondary containment. Disconnecting and capping, or removing, all integral piping. Manways shall be secured to prevent access;~~
- c. ~~Closing the storage tank system in accordance with paragraphs 62-761.800(2)(b), F.A.C., as applicable; and~~
- d. ~~Conducting a closure assessment in accordance with subsection 62-761.800(3), F.A.C.~~

2. A storage tank system that fails to meet the requirements of Rule 62-761.500, F.A.C. After closure, storage tank systems may be used to store materials or substances other than regulated substances in accordance with all applicable Department reference standards, (for example, API 1604). Owners and operators are advised that other federal, state, or local requirements may apply to these activities.

3. A storage tank system that requires repair pursuant to Rule 62-761.700, F.A.C., but cannot be repaired to operate in accordance with the requirements of this Chapter. ~~Monitoring wells associated with closed systems that are not being used for release detection or site assessment purposes shall be closed in accordance with paragraph 62-761.600(1)(k), F.A.C.~~

(b) ~~Closure of storage tank systems shall be performed by: Unmaintained systems shall be permanently closed~~

within 90 days of discovery.

~~(c) System removal, closure in place, and disposal shall be performed:~~

1. Properly closing monitoring wells associated with closed systems that are not being used for site assessment purposes; in accordance with API RP 1604 and NFPA 30; and

2. Removing or disconnecting and capping all integral piping; By a Certified Contractor if the system is removed from the ground, unless it is closed in place by filling it with a solid inert material of sufficient density to prevent a structural collapse of the closed system.

3. Removing and disposing of a storage tank by a Certified Contractor, or in-place closure by filling the storage tank with a solid inert material of sufficient density to prevent a structural collapse of the closed storage tank, which shall be in accordance with the following documents hereby adopted and incorporated by reference, and available from the addresses given. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, and Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C). In lieu of in-place closure or removal, a storage tank may be used to store liquids other than regulated substances in accordance with API RP 1604. Owners and operators are advised that other federal, state, or local requirements apply that regulate these activities; and

4. Conducting a Closure Evaluation and preparing a Closure Report, as referenced in paragraph 62-761.210(2)(c), F.A.C., in accordance with subsection 62-761.800(3), F.A.C.

(c) The removal and disposal of all liquids and accumulated sludges may be required according to other local, state, and federal requirements.

(3) Closure Report and Evaluation Requirements, as referenced in paragraph 62-761.210(2)(c), F.A.C. Closure assessment of storage tank systems.

(a) Closure Report At time of closure, replacement, installation of secondary containment, or change in service from a regulated substance to a non-regulated substance, an assessment shall be performed to determine if a discharge from the system or system components has occurred.

1. A Closure Report is always required and shall be completed in accordance with the Department's "Storage Tank System Closure Guidelines - Closure Evaluation Guidance," specified in paragraph 62-761.210(2)(c), F.A.C., at the time of closure, replacement, installation of secondary containment, repairs performed because of an operational or structural problem that could potentially result in a release, or change in service from a regulated substance to a non-regulated substance for tanks, integral piping, and other system components in contact with the soil If a Site Rehabilitation Completion Order (SRCO) or a Monitoring Only Plan (MOP) Approval Order has been issued by the Department for a contaminated area of a site, a closure assessment shall be performed for any subsequent storage tank system removal, replacement, or installation of secondary containment.

2. A Closure Report (including a Closure Evaluation, as required), shall be submitted in writing or electronic format to the County within 60 days of completion of any of the activities listed in subparagraph 62-761.800(3)(a)1., F.A.C. Tanks, pipes, or other system components in contact with soil at any site are subject to closure assessment requirements.

(b) Closure Evaluation. In addition to a Closure Report, all storage tank systems in contact with the soil must perform a Closure Evaluation according to the Department's "Storage Tank System Closure Guidelines - Closure Evaluation Guidance" specified in paragraph 62-761.210(2)(c), F.A.C. A closure assessment is not required for:

1. Sites with documented contamination requiring a site assessment in accordance with Chapter 62-770, F.A.C., including those that are eligible for the Early Detection Incentive Program (EDI), the Florida Petroleum Liability and Restoration Insurance Program (FPLRIP), and the Petroleum Cleanup Participation Program (PCPP), pursuant to Sections 376.3071 and 376.3072, F.S. Nevertheless, documentation of procedures followed and results obtained during closure shall be reported in a Limited Closure Summary Report, Form 62-761.900(8), and in accordance with Section A of DEP's "Storage Tank System Closure Assessment Requirements";

2. Systems initially installed with secondary containment, provided that no unexplained positive response of an interstitial release detection device or method occurred during the operational life of the system, or the secondary containment passed a breach of integrity test prior to closure; and

3. Systems upgraded with secondary containment that have closed interstitial spaces, where a closure assessment was performed prior to installation of secondary containment, provided that the secondary containment passed a breach of integrity test in accordance with paragraph 62-761.640(3)(a), F.A.C.;

(c) Closure assessment sampling and analysis shall be conducted according to DEP's "Storage Tank System Closure Assessment Requirements."

(d) A closure assessment report shall be submitted to the County within 60 days of completion of any of the activities listed in paragraph 62-761.800(3)(a), F.A.C. The report shall include sample types, sample locations and

measurement methods, a site map, methods of maintaining quality assurance and quality control, and any analytical results obtained during the assessment in accordance with DEP's "Storage Tank System Closure Assessment Requirements."

(e) Persons are advised that contaminated soil excavated, disposed of, or stockpiled on site during the closure of a storage tank system is regulated by Chapter 62-770, F.A.C.

Tank Tech has several concerns with the Closure Section of the Rule and needs additional time to interpret how these changes will affect their business, particularly in light of the differences between Florida rules and many other states that rely on the federal UST rules. It is our understanding that DEP stated at the December 17 workshop that FDEP would be holding a separate workshop just on the Closure requirements. Tank Tech supports this and would like to reserve the opportunity to submit additional comments.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.30716 FS. History—New 12-10-90, Formerly 17-761.800, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.820 Incident and Discharge Response.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.820, Amended 9-30-96, 7-13-98, 6-21-04, Repealed.

62-761.850 Alternative Procedures Requirements and Equipment Registration Approvals.

(1) Alternative procedure requirements.

(a) Any person subject to the provisions of this Chapter may request in writing a determination by the Secretary or the Secretary's designee that any requirement of this Chapter shall not apply to a regulated storage tank system at a facility, and shall request approval of alternative ~~alternate~~ procedures or requirements.

(b) On Form 62-761.900(4), Alternative Requirement or Procedure Form, effective date, (the effective date of the rule), hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>, ~~t~~The request shall set forth at a minimum the following information:

1. The specific storage tank system or facility for which an exception is sought;
2. The specific provisions of this Chapter 62-761, F.A.C., from which an exception is sought;
3. The basis for the exception;
4. The alternative procedure or requirement for which approval is sought;
5. Documentation that demonstrates that the alternative procedure or requirement provides an equivalent or greater degree of protection for the lands, surface waters or groundwaters of the State as the specific provisions of this Chapter from which an alternative procedure is sought ~~established requirement~~; and
6. Documentation that demonstrates that the alternative procedure or requirement is at least as effective as the established procedure or requirement.
7. If an alternative ~~alternate~~ procedure or requirement is not able to be sought under subparagraph 5. or 6., then documentation that demonstrates that the specific provisions of this Chapter from which the exception is sought imposes regulatory costs on the regulated entity that could be reduced through approval of a less costly regulatory alternative or requirement that provides a substantially equivalent degree of protection for the lands, surface waters, or groundwaters of the State as the established requirement.

(c) The Department shall issue an Order either: Within 60 days of the receipt of a request for approval of an alternative procedure or requirement, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(1), F.A.C., are met.

1. Approving the request with any conditions necessary to meet the requirements of paragraph 62-761.850(1)(b), F.A.C.; or

2. Denying the request and stating the reason(s) the request does not make an adequate demonstration that the requirements of paragraph 62-761.850(1)(b), F.A.C., have been met.

(d) The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S. ~~The Secretary or the Secretary's designee shall specify by order each alternative procedure or requirement approved for an individual storage tank system or facility in accordance with this rule or shall issue an order denying the request for such approval.~~

(e) The provisions of this ~~R~~ule do not preclude the use of any other applicable relief provisions.

(2) Registration of storage tank system equipment and release detection systems and methods ~~Equipment approvals.~~

(a) Owners and operators shall verify at the time of installation that the storage tank system equipment and release detection systems and methods (including equipment and methods that were previously approved by the Department under the former Equipment Approval process) have been registered with the Department. ~~Storage tank system equipment used in the State of Florida must have the approval of the Department before installation or use, with the exception of:~~

(b) Any storage tank system equipment installed after *(the effective date of the rule)* must be registered with the Department in accordance with this section. Upon discovery, non-registered storage system equipment installed after *(the effective date of the rule)* must be removed within 90 days, unless registration is obtained and listed within the 90 day time period.

(c) Equipment previously approved by the Department under the former Equipment Approval process and installed prior to *(the effective date of the rule)* can continue to be used regardless of later non-renewal or removal of registration from the list of registered storage tank system equipment, provided the equipment is still operating as designed.

(d) Only the storage tank system equipment as stated in this Chapter shall be registered by the equipment manufacturer using Form 62-761.900(3) Storage Tank System Equipment Registration Form, effective date, *(the effective date of the rule)*, hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>. The following storage tank system equipment is exempt from registration:

1. Dispensers, dispenser islands, nozzles, and hoses;
2. ~~Monitoring well bailers;~~
3. ~~Manhole and fillbox covers;~~
34. ~~Valves and ball float valves;~~
45. ~~Cathodic protection test stations;~~
6. ~~Metallic bulk product piping;~~
57. Small diameter integral piping not in contact with soil, unless the integral piping extends over or into surface waters; and
68. Vent lines.

7. Gauges used for vacuum monitoring

(e)(b) ~~Registration~~ Equipment approval requests shall be submitted to the Department in writing or electronic format with a demonstration that the equipment will ~~provide equivalent protection or~~ meet the appropriate performance ~~requirements~~ standards contained in this Chapter. Any approvals or denials received from other states shall be included in the registration approval request to the Department.

(f)(e) A third-party demonstration by a Nationally Recognized Testing Laboratory shall be submitted in writing or electronic format to the Department with the application. The third-party demonstration shall provide:

1. A technical evaluation of the equipment;
2. Test results that verify that the equipment will function as designed; ~~and~~
3. A professional certification or determination that the equipment meets the performance ~~requirements~~ standards contained in this Chapter; ~~Rule 62-761.500, F.A.C.~~
4. Integrity test requirements and procedures; and
5. Annual operability testing procedure for the equipment or release detection system or method.

(g)(d) Release detection methods and tank and piping tightness and pressure testing methods must be registered in accordance with this subsection and be listed with the National Work Group On Leak Detection Evaluations, <http://www.nwglde.org/>, prior to being used. Within 60 days of the receipt of a request for an equipment approval, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(2), F.A.C., are met.

(h)(e) The storage tank system equipment and release detection systems and methods registered with the

Department under this subsection must be renewed every five years. Failure to renew will result in removal from the equipment registration list. Any changes, improvements, or modifications to equipment beyond the scope of the original demonstration by the Nationally Recognized Testing Laboratory will require a renewal of the registration and a new demonstration from a Nationally Recognized Testing Laboratory pursuant to paragraph 62-761.850(2)(f), F.A.C. The Secretary or the Secretary's designee shall specify by order each equipment approval that is approved in accordance with this rule or shall issue an order denying the request for such approval. The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S.

(i) The Department shall place conditions upon the use of the storage tank system equipment and release detection systems and methods, remove equipment or methods from the list of registered storage tank system equipment, or not renew registration based on the information submitted to the Department in accordance with this subsection or if the equipment does not perform in field application as certified in the third party certification by a Nationally Recognized Testing Laboratory.

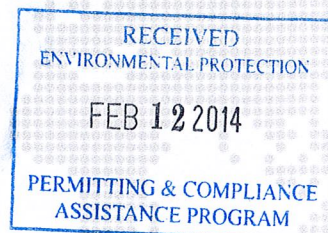
Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.850, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.900 Storage Tank Forms.

The forms used by the Department in the Storage Tank System Program are adopted and incorporated by reference in this section. The forms are listed by form rule number, which is also the form number, and with the subject title, and effective date. Copies of forms are available may be obtained by writing to the Administrator, Storage Tank Regulation Section, Florida Department of Environmental Protection, Division of Waste Management, 2600 Blair Stone Road, M.S. 4500 4525, Tallahassee, Florida 32399-2400, or at or online at:
www.flrules.org/Gateway/reference.asp?No=Ref-000### or
<http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

- (1) Form 62-761.900(1) Discharge Report Form, (the effective date of the rule) July 13, 1998.
- (2) Form 62-761.900(2) Storage Tank Facility Registration Form, (the effective date of the rule) July 13, 1998.
- (3) Form 62-761.900(3) Storage Tank System Equipment Registration Form, (the effective date of the rule) Certification of Financial Responsibility, July 13, 1998.
- (4) Form 62-761.900(4) Alternative Requirement or Procedure Form, (the effective date of the rule) July 13, 1998.
- (5) Form 62-761.900(5) Underground Storage Tank Installation and Removal Form for Certified Contractors, (the effective date of the rule) July 13, 1998.
- (6) Form 62-761.900(6) Incident Notification Form, (the effective date of the rule) July 13, 1998.
- ~~(7) Monthly Statistical Inventory Reconciliation (SIR) Report, July 13, 1998.~~
- ~~(8) Limited Closure Summary Report Form, July 13, 1998.~~

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.900, Amended 9-30-96, 7-13-98, Repromulgated 6-21-04,_____.



January 31, 2014

Bill Burns
Permitting and Compliance Assistance Program
Florida Department of
Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: M-SCG Comments for Chapter 62-761, F.A.C., and Chapter 62-762, F.A.C.

Dear Bill,

Northern Technologies International – Zerust Division, appreciates the opportunity to comment on the Department's proposed revisions to Chapter 62-761, F.A.C, Underground Storage Tank Systems, and Chapter 62-762, F.A.C, Aboveground Storage Tank Systems. Our written comments attached to this cover letter are intended to augment the verbal comments provided at the December 17, 2013 Public Workshop in Tallahassee. Also, as stated during the workshop, we encourage the Department to establish technical committees with industry experts and to hold additional workshops. We would also like to volunteer to participate on any technical committees to assist the Department.

As previously discussed at the Workshop, we are requesting that the Department divide the existing AST rule (Rule 62-762, F.A.C.) into three parts. Part One would contain all of the requirements for field-erected tanks, Part Two would have the requirements for shop-fabricated tanks, and Part Three would have the existing requirements for mineral acid tanks. Each Part of the rule is distinctly different in structure and purpose, yet they all fit under the umbrella of "Aboveground Storage Tank Systems" and therefore, no new Chapter would be necessary. This proposed reorganization will go a long way in improving the clarity of the rule and will help to minimize misinterpretations and misunderstandings between the Department, the Counties, and industry.

Our attached comments are in three separate documents - one for field-erected tanks, one for shop-fabricated tanks, and one for USTs. Our proposed revisions to the wording of the rules are in red fonts as strike-through or underlined text. Our explanations and justifications for the proposed revisions are in green italic fonts. Both are in italics to differentiate between the Department's existing and proposed rule language in black fonts. We appreciate your consideration in this matter, and please feel free to contact me if you have any questions.

Best Regards,

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CHAPTER 62-761 UNDERGROUND STORAGE TANK SYSTEMS

62-761.100	Intent
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62-761.210	Reference <u>Requirements Standards</u>
62-761.300	Applicability
62-761.350	<u>Operator Training and Certification</u> (Reserved for Rulemaking)
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62-761.405	<u>Notification</u>
62-761.420	<u>Financial Responsibility</u>
62-761.430	<u>Incidents</u>
62-761.440	<u>Discharges</u>
62-761.450	<u>Notification and Reporting</u> (Repealed)
62-761.500	<u>Storage Tank System Requirements Performance Standards for Category C Storage Tank Systems</u>
62-761.510	<u>Performance Standards for Category A and Category B Storage Tank Systems</u> (Repealed)
62-761.600	Release Detection <u>Requirements Standards</u>
62-761.610	<u>Release Detection Methods</u> (Repealed)
62-761.640	<u>Performance Standards for Release Detection Methods</u> (Repealed)
62-761.700	Repairs, Operation and Maintenance of <u>Storage Tank Systems</u>
62-761.710	Recordkeeping
62-761.800	Out-of-Service and Closure Requirements
62-761.820	<u>Incident and Discharge Response</u> (Repealed)
62-761.850	Alternative Procedures <u>Requirements and Equipment Registration Approvals</u>
62-761.900	Storage Tank Forms

62-761.100 Intent.

(1) The purpose of this Chapter is to provide requirements standards for the registration, construction, installation, operation, maintenance, repair, closure, and disposal of underground storage tank systems that store regulated substances, in order and to minimize the occurrence and environmental risks of releases and discharges. This Chapter provides requirements standards for underground storage tank systems having individual storage tank capacities greater than 110 gallons.

(2) No change.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.100, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.200 Definitions.

All words and phrases defined in Sections 376.301 and 376.79, F.S., shall have the same meaning when used in this chapter unless specifically stated otherwise in this chapter. See Sections 376.301 and 376.79, F.S., for definitions of the following terms: “Contaminant (contamination shall mean the same as contaminant),” **Contaminated** ~~Contaminated~~ site,” “Department,” “Discharge,” “Facility,” “Hazardous substances,” “Operator,” “Owner,” and “Pollutants.” The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings: ~~The following words, phrases or terms used in this chapter, unless the context indicates otherwise, shall have the following meaning:~~

(Typo)

(1) No change

(2) “Biofuel” means fuel produced from renewable resources, especially plant biomass, vegetable oils, and treated municipal and industrial wastes. ~~“AST” means an aboveground storage tank.~~

(3) “Bulk product piping” means on-site integral piping with an internal diameter greater than three inches that is utilized for transporting regulated substances.

~~(3)(4)~~ “Cathodic protection” means a method of preventing corrosion of a metal surface by making that surface the cathode of an electrochemical cell through the use of devices such as galvanic anodes or impressed current.



(5) “Cathodic Protection Tester” means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

(This definition should remain because the testing of cathodic protection systems, and in particular galvanic anode cathodic protection systems, do not require that same level of certification. Testers go in the field to verify adequate cathodic protection exists on a tank or pipe, but they do not design systems or perform retrofit. Their services are needed along with the definition to spell out the differences in responsibilities. Further, in 2006, the STI suggested that FDEP reference the STI Certification program for cathodic protection testers as an alternate to the NACE program. A number of States have adopted the STI Certification program specifically within their regulations. STI has certified approximately 475 testers throughout the country.

(4)(6) “Certified Contractor” means a Pollutant Storage System Contractor certified by the Department of Business and Professional Regulation in accordance with Chapter 489, F.S. *Except for the exemptions specified in Chapter 489, F.S., Certified Contractors are not required for activities that do not involve excavating or disturbing the backfill around UST systems. Certified Contractors are the only contractors authorized to perform the following activities for underground pollutant storage tank systems:*

(a) Installation of:

1. USTs or integral piping, excluding drop tubes;

2. Overfill protection and spill containment;

3. Secondary containment;

4. Internal release detection devices;

5. Cathodic protection systems; and

6. Dispenser liners when the integral piping is connected or disconnected during the installation of secondary containment.

(b) Removal of tanks or integral piping; and

(c) Internal lining of tanks.

(Recommend leaving this clarifying language in for the benefit of regulated interests)

(5) “Certified Contractors Form” means Underground Storage Tank Installation and Removal Form for Certified Contractors 62-761.900(5).

(6)(7) “Chlorine” includes organic and inorganic compounds that are liquids at standard temperature and pressure that, when discharged, may release free chlorine (Cl₂) or chlorides (Cl⁻).

(7) “Closure Evaluation” means the investigation at the time of closure, replacement, installation of secondary containment, repairs performed because of an operational or structural problem that could potentially result in a release, or change in service from a regulated substance to a non-regulated substance for tanks, integral piping, and other system components that are in contact with the soil to determine if there has been a discharge.

(8) “Closure Report” is a document that contains the Closure Evaluation, as applicable, and a description of the closure activities and the condition and integrity of the storage tank system or storage tank system component at the time of closure, replacement, installation of secondary containment, ~~repairs performed because of an operational or structural problem that could potentially result in a release,~~ or change in service from a regulated substance to a non-regulated substance for tanks, integral piping, and other system components that are in contact with the soil.

(Language is too vague and could be misinterpreted by inspectors. Repairs usually have nothing to do with closure. If you are going to repair equipment, you intend to keep it. If it can't be repaired, then closure may be necessary. Recommend striking the reference to repairs in the definition because of the potential of inclusion of minor repairs and the additional cost. The environment will be protected through the definition of “discovery” if a release occurs during a repair.)

(9)(8) “Compatible” means the ability of two or more substances to maintain their respective physical and



chemical properties upon contact with one another for the design life of the storage tank system under conditions likely to be encountered in the storage tank system.

(9) “Contamination” or “contaminated” means the presence of regulated substances in surface water, groundwater, soil, sediment, or upon the land, in quantities result in exceedances of applicable cleanup target levels specified in Chapter 62-770, F.A.C., where petroleum or petroleum products are present, or water quality standards in Chapter 62-3, 62-302, or 62-550, F.A.C.

(10) “Corrosion Professional” means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal components of a storage tank system. Corrosion Professionals shall be accredited or certified by NACE International as a Cathodic Protection Specialist or Corrosion Specialist, or be a professional engineer licensed registered in the State of Florida.

Corrosion Professionals using vapor corrosion inhibitor technologies for corrosion control must have experience with and knowledge of vapor corrosion inhibitors, and installation certification from the vapor corrosion inhibitor technology registered in accordance with Rule 62-762.851(2), F.A.C.

(Establishes criteria for Corrosion Professionals using this technology for corrosion control.)

(10a) “Corrosion Protection” means the minimization of corrosion by the use of cathodic protection or by the use of vapor corrosion inhibitors.

(Reason – provides that cathodic protection is not the only approved method of protecting metal surfaces from corrosion.)

(11) “County” means a locally administered program under contract with the Department to perform compliance verification activities at facilities with storage tank systems within the boundaries stipulated in the applicable contract.

~~(12)~~(13) “Day tank” means a storage tank system component in close proximity to an engine to provide a reliable supply of fuel.

(12) “Discharge” includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substance which occurs and which affects lands and the surface and ground waters of the state.

(13) “Discovery” means:

~~(a) Either actual knowledge or knowledge of facts that could reasonably lead to actual knowledge of the existence of an incident, release, or discharge, or an unmaintained storage tank system; or~~

~~(b) Discovery as specified in the Petroleum Contamination Site Cleanup Criteria subsection 62-770.200(10), F.A.C.~~

(14) “Dispenser” means a dispensing system that is used to transfer vehicular fuel from a fixed point to a vehicle.

(15) “Dispenser liner” means a liner installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(14) “Dispenser sump” means a storage tank system component installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

~~(15)~~(16) “Dispensing system” or “Dispenser” means equipment that is used to transfer regulated substances from integral piping through a rigid or flexible hose to a vehicle or portable container or pipe to another point of use outside of the storage tank system.

~~(16)~~(17) “Double-walled” means a storage tank system component that has an outer tank wall, or integral piping that has an outer wall that provides secondary containment of the primary tank or piping.

(17) “DRF” means Discharge Report Form 62-761.900(1).

(20) “Empty” means all regulated substances have been removed so that no more than one inch in depth or 0.3 percent by weight of total system capacity of regulated substances remains in the storage tank system.

(Recommend retention of this definition. It has not been a problem, and allows for



condensate and other “de-minimus” amounts of liquid in the tank.)

(19) “Existing contamination” means:

(a) The presence of free product or sheen on the groundwater;

(b) The presence of vapor levels in monitoring wells measured in accordance with DEP’s “Guidelines for Vapor Monitoring” or by a Flame Ionization Detector or an equivalent instrument in excess of:

1. 500 parts per million total petroleum hydrocarbons for storage tank systems containing gasoline or equivalent petroleum products; or

2. 50 parts per million total petroleum hydrocarbons for storage tank systems containing kerosene, diesel or other equivalent petroleum products;

(c) Results of analytical tests on a groundwater sample that:

1. Exceed the cleanup target levels for petroleum products’ contaminants of concern specified in Table I of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

(d) After July 13, 1998, results of analytical tests on a soil sample that:

1. Exceed the lower of direct exposure residential and leachability based on groundwater criteria cleanup target levels for petroleum products’ contaminants of concern specified in Table II of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above.

(20) “Facility” means a nonresidential location containing, or that contained, any stationary tank or tanks containing, or that contained regulated substances, and that have, or had, individual capacities greater than 110 gallons for UST systems.

(18)(24) “Free product” means the presence of nonaqueous phase liquid in the environment a regulated substance in excess of 0.01 foot in thickness, measured at its thickest point, floating on water, surface water or groundwater.

(22) “Hazardous substances” means those substances defined as hazardous substances in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(33) “Heating oil” means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces.

(Recommend retention of the definition of “Heating Oil” to avoid confusion to regulated interests. Not a problem now.)

(24) “High viscosity” means a pollutant with a viscosity of 30 centistokes (cSt) and higher at 40 degrees Centigrade.

(25) “Hydraulic lift tank” means a tank that holds hydraulic fluid for a closed loop mechanical system used to operate lifts, elevators, and other similar devices.

(19)(26) “Hydrostatic test” means a containment integrity test for a storage tank or storage tank system component that is performed in accordance with this Chapter using equilibrium and the pressure of liquids to test the integrity of the tank or system component.

(20)(27) “Impervious” means:

(a) a synthetic material or another material registered in accordance with subsection 62-761.850(2), F.A.C., that is compatible with the stored regulated substance, and has a permeability rate to the regulated substance stored of 1×10^{-7} cm/sec or less; or

(b) For concrete structures, a material that:

1. Meets the design and construction standards of ACI 350R-89 and ACI 224R-89; or

2. Is applied to the concrete in accordance with NACE International Standard RP0892-92

(21)(28) “In contact with the soil” means any portion of a storage tank system, that physically touches the soil



or, if not in direct contact with the soil, is separated from the soil only by a casing, wrapping, or other material that is not impervious, integral piping connected to USTs, or any portion of a tank, that:

- (a) ~~Physically touches the soil; or~~
- (b) ~~Is not in direct contact with the soil, and is separated from the soil only by a casing, wrapping, or other material that is not impervious.~~
- (c) ~~Those portions of integral piping that are elevated and that are not in direct contact with the soil are excluded from this definition.~~

(22)(29) “Incident” is a condition or situation indicating that a release or discharge may have occurred from a storage tank system.

(23) “INF” means Incident Notification Form 62-761.900(6).

(24)(30) “In-service” means a storage tank system that is being actively operated and that contains greater than one inch or 0.3% by weight of regulated substance, ~~is being actively maintained and operated in accordance with this Chapter. Non-compliance with any specific rule within this Chapter does not exclude the system from being considered “in-service.” Subject to the above, a storage tank system is also considered to be in-service if it:~~

- (a) ~~Contains regulated substances or has regulated substances regularly added to or withdrawn from the system;~~
- (b) ~~Is emptied solely for the purpose of cleaning, routine maintenance, or a change in product, for a time period not exceeding 45 days; or~~
- (c) ~~Contains non-regulated substances and is still maintained in an in-service status at the request of the owner or operator.~~

(The 0.3% by weight requirement is not a current problem. Safeguards are being proposed in the notification section of the rule that would prevent owners from excessive reporting or notification for routine temporary out-of-service notifications to the Department.)

(25)(31) “Integral piping” means on-site piping, originating or terminating at the regulated storage tank or tanks, that conveys regulated substances. Integral piping, not including vapor recovery lines and vent lines, includes all valves, elbows, joints, flanges, pumps, and flexible connectors, up to the:

- (a) Union of the piping with the dispensing system;
- (b) Fill cap or fill valve; or
- (c) Forwarding pump used for transferring regulated substances to a flow-through process tank or an industrial production or manufacturing point of use; ~~or~~
- (d) ~~First flange or connection within the loading rack containment area.~~

(The revision that excludes vapor recovery lines and vent lines is a good one and has full industry support)

(26) “Integrity test” means a determination of the liquid tightness of a storage tank system component using one of the following types of tests:

- (a) “Interstitial integrity test” means an evaluation of the interstitial space in a double-walled storage tank system component using vacuum, pressure, liquid level monitoring systems, or equivalent test methods certified by a Nationally Recognized Testing Laboratory; or
- (b) “Primary integrity test” means an evaluation of the liquid tightness of the primary tank or integral piping.
- (c) “Containment integrity test” means an evaluation of the liquid tightness of the hydrant pits, isolation valve pits, piping sumps, dispenser sumps, and spill containment systems.

(Adds additional systems used in the military for USTs. Most commercial hydrant systems are bulk product systems with field-erected ASTs.)

(32) “Internal lining” means a material that is applied internally on USTs to protect the tank from internal corrosion.

(27) “Interstice” means the space between the primary and secondary wall of a storage tank or storage tank system component.



(Clarification to ensure that people don't think that it only applies to components and not the tank or piping)

~~(28)(33)~~ “Interstitial monitoring” is a method of release detection in which the interstice is monitored. ~~release detection method that is used to determine the presence of regulated substances or water between the primary and secondary containment. Interstitial monitoring can be performed within:~~

~~(a) A closed interstitial space between two steel or impervious barriers that are sealed, not open to the atmosphere, and designed to be tested for a breach of integrity of the interstitial space; or~~

~~(b) An open interstitial space between two steel or impervious barriers that are open to the atmosphere, and not designed to be tested for a breach of integrity of the interstitial space.~~

~~(34) “Liner” means an impervious material that meets the performance standards of paragraph 62-761.500(1)(d), F.A.C., that is used externally as a method of secondary containment.~~

~~(29)(35)~~ “Maintenance” means the normal operational upkeep in accordance with Rule 62-761.700, F.A.C., to prevent a storage tank system from releasing or discharging regulated substances.

~~(30)(36)~~ “Nationally Recognized Testing Laboratory” means an international or national organization or governmental entity that can perform quantitative and qualitative tests on storage tank system equipment, evaluate the test data and equipment performance, and make determinations of the equipment’s capability of meeting the technical requirements standards of this Chapter. A Nationally Recognized Testing Laboratory shall have at least five years of professional storage tank system equipment testing experience. **Nationally Recognized Laboratories include organizations such as Underwriter’s Laboratories, Carnegie Mellon Research Institute, Southwest Research Institute, Midwest Research Institute, Ken Wilcox Associates, Factory Mutual, and American Board of Engineering and Technology (ABET) Accredited Universities.**

(Recommend retention of this language to help equipment manufacturers and other interested parties with obtaining services.)

~~(31)~~ “New” means a storage tank system or system component that is installed after the effective date of this Chapter.

~~(32)(37)~~ “On-site” means on the same or geographically contiguous property as the facility regulated under this Chapter, that is under the same ownership or control, and which may be divided by a public or private right-of-way or an easement.

~~(33)~~ “Operability test” means a test performed to determine if electronic and mechanical release detection and overfill protection devices or systems are functioning as designed and in accordance with manufacturers specifications.

~~(38)~~ “Operational life” refers to the period from the start of installation of the storage tank system to the completion of the closure of the storage tank system in accordance with subsection 62-761.800(2), F.A.C.

~~(39)~~ “Operator” means any person operating a facility, whether by lease, contract, or other form of agreement.

~~(34)(40)~~ “Out-of-service” means a storage tank system **meeting the requirements in subsection 62-761.800(1), F.A.C., that the owner and operator removes from active operations for an extended period of time that:**

(a) Is designated as an out-of-service system by owner or operator notification to the Department on Form 62-761.900(2);

(b) Is empty as defined in subsection 62-761.200(18), F.A.C.; and

(c) Does not have regulated substances transferred into or withdrawn from the tank as specified in subsection 62-761.800(1), F.A.C., for a maximum time of:

1. Two years of being taken out of service for USTs; or

2. Ten years of being taken out of service for storage tank systems with secondary containment.

(Recommend retention of the 2004 definition with minor changes. This has not been a significant problem, and the new definition really isn’t defined. It just says “meeting the requirements in subsection 62-761.800(1), F.A.C.”, which really is of marginal use to owners trying to comply. The amended version above is more descriptive and useful for all parties involved)

~~(34)(41)~~ “Overfill” is an incident ~~a release or discharge~~ that occurs when a tank is filled beyond its capacity.



(35) “Overfill protection” is a device or method for preventing an incident, release, or discharge from a storage tank during filling of the storage tank system.

(42) “Owner” means any person as defined in Section 376.301(23), F.S., owning a facility.

(36)(43) “Pesticides” mean any substance or mixture of substances, as defined in 487.201, F.S., intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the Department of Agriculture and Consumer Services by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term “pesticide” does not include any article that:

(a) Is a “new animal drug” within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act;

(b) Has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or

(c) Is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection. means all preparations, products, and substances included in the Department of Agriculture and Consumer Services’ Rule 5E 2.002, F.A.C.

(44) “Petroleum” includes:

(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and

(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph 62-761.200(44)(a), F.A.C.

(45) “Petroleum product” means any liquid fuel commodity made from petroleum.

(a) Forms of fuel considered to be petroleum products include all fuels known or sold as:

1. Diesel fuel;
2. Kerosene;
3. Gasoline; and
4. Fuels containing mixtures of gasoline and other products.

(b) Forms of fuel excluded from this definition are:

1. Liquefied petroleum gas;
2. American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils;
3. Bunker C residual oils;
4. Intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher;
5. Asphalt oils; and
6. Petrochemical feedstocks.

(37)(46) “Pipe” or “piping” means any hollow cylindrical or tubular conveyance through which regulated substances flow.

(38)(47) “Piping sump” or “Submersible turbine pump sump” means a storage tank system component liner installed as secondary containment or a monitoring port at the top of a tank or lowest point in the integral piping to detect releases.

(48) “Pollutants” includes any “product” as defined in Section 377.19(11), F.S., pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(49) “Pressure test” means a test to determine the integrity of integral piping performed in accordance with subparagraph 62-761.640(5)(a)1., F.A.C.

(39)(50) “Pressurized piping” means piping through which regulated substances flow due to a pump that is not located at the dispensing system.

(40)(51) “Product” as defined in Section 377.19(11), F.S., means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, used oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(Why is this statutory definition retained in the rule while all others have been deleted?)



(52) “Registered Precision Tank Tester” means a contractor that performs tightness tests on USTs, and small diameter piping connected to USTs, that is registered by the Department of Business and Professional Regulation pursuant to Chapter 489, F.S.

(41) “Registration form” means Storage Tank Facility Registration Form 62-761.900(2).

(42)(53) “Regulated substance” means a liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), that is a pollutant or a hazardous substance, or any mixture of the two, when stored in a storage tank UST.

(43)(54) “Release” means:

(a) ~~A discharge; or~~

(b) ~~a~~ A loss of regulated substances from a storage tank system into the system’s secondary containment.

(44)(55) “Release detection” means a method of:

(a) ~~Determining whether a discharge of regulated substances has occurred; or~~

(b) ~~d~~ Detecting the presence of regulated substances within a storage tank system’s secondary containment and/or detecting other conditions or situations indicative of a release or discharge.

(56) “Release detection response level” is the point of measurement, calculation, observation, or level that is established for each individual release detection device or method at which an investigation must be initiated to determine if an incident, release, or discharge has occurred.

(Eliminating this well intended but no longer useful RDRL requirement is a good thing!)

(45)(57) “Repair” means to restore or replace any defective or damaged parts of a storage tank system in accordance with Rule 62-761.700, F.A.C. ~~Replacement of a non-defective part is not a repair.~~

(46)(58) “Residential storage tank system” means a storage tank system that services a non-commercial building that is used exclusively as a dwelling unit which means a structure that is used as a home or residence by one or more persons who maintain a common household, excluding transient occupancies, is located on property used primarily for dwelling purposes, and the storage and use of regulated substances in the tank is for residential purposes.

(47)(59) “Secondary containment” means a release detection and discharge prevention system that meets the performance requirements standards of paragraph 62-761.500(1)(b), F.A.C., and includes dispenser sumps liners, piping sumps, spill containment systems, the outer wall of double-walled tanks and integral piping, or the liner systems, or single-walled tanks or piping systems that are contained within a liner or an impervious containment area surrounding single-walled tanks or integral piping.

(48)(60) “Sheen” means a regulated substance less than or equal to 0.01 foot in thickness, measured at its thickest point, or visibly observed, floating on surface water, groundwater, or within secondary containment.

(61) “Significant loss or gain” means the sum of losses and gains of a regulated substance over a 30-day or monthly period that exceeds:

(a) ~~For tanks with capacities between 111 and 2,000 gallons with an individual flow through less than 5,000 gallons during the previous 30 days:~~

1. ~~One percent of the tank capacity; or~~

2. ~~One percent of the total weekly output; or~~

3. ~~Fifty gallons, whichever is greatest; or~~

(b) ~~For tanks with capacities greater than 2000 gallons, or tanks with an individual flow through exceeding 5,000 gallons during the previous 30 days:~~

1. ~~One percent of the tank capacity; or~~

2. ~~One percent of the amount of product dispensed during the previous 30 days, plus 130 gallons, whichever is greatest.~~

(62) “Small diameter piping” means integral piping with an internal diameter of three inches or less that is utilized for transporting regulated substances.

(49) “Spill containment system” means a fixed component that is designed to prevent a discharge of regulated substances from the tank fill pipe.

(50)(63) “Storage tank system” means a tank used to contain regulated substances, its integral piping, and all its components, including dispensing systems, spill containment systems devices, overfill protection systems devices, secondary containment systems, day tanks, and any associated release detection equipment. A storage tank system is a “storage system” as defined in Chapter 376.301, F.S.

(51)(64) “Suction piping” means piping through which regulated substances flow due to a pump located at the



dispensing system.

~~(52)(65)~~ “Tank” means an enclosed stationary container or structure that is designed or used to store regulated substances, and the volume of which, including the volume of underground piping, is ten percent or more buried beneath the surface of the ground.

(66) “Tightness test” means a test for an underground storage tank or its small diameter piping that is performed in accordance with subparagraphs 62-761.640(3)(f)1. and (4)(b), F.A.C., by a precision tank tester registered with the Department of Business and Professional Regulation under Chapter 489, F.S.

(67) “UST” means an underground storage tank.

(68) “UST Category A system” means a system containing pollutants that was installed on or before June 30, 1992, or a system containing hazardous substances that was installed before January 1, 1991.

(69) “UST Category B system” means a system containing pollutants that was installed after June 30, 1992, or a system containing hazardous substances that was installed on or after January 1, 1991, and before July 13, 1998.

(70) “UST Category C system” means a system that was installed on or after July 13, 1998. USTs that are removed and relocated on or after July 13, 1998 are considered Category C systems.

(71) “Unmaintained” means:

(a) A storage tank system that was not closed in accordance with Department rules; or

(b) An out of service storage tank system that is not returned to in service status within:

1. Two years of its being out of service for USTs; or

2. Ten years of its being out of service for storage tank systems with secondary containment.

(72) “Upgrade” means the addition or retrofit of cathodic protection, internal lining, spill prevention, overfill protection, or secondary containment, to a storage tank system, or the installation of single wall corrosion resistant storage tanks, to improve the ability of the storage tank system to prevent discharges of regulated substances.

(xx) “Temporary out-of-service” is a designation of a service status for an underground storage tank system that is emptied solely for the purpose of cleaning, routine maintenance, microbial contamination, a “stop sale” order by DACS, or change of product for a time period exceeding seven days, but less than three months.

(Recommend inclusion of this status. Facility Owners have encountered problems with alternative fuels and bio-fuels, and it provides a convenient way of dealing with temporary down-time to clean tanks or perform routine maintenance without the paperwork or notification that adds costs without benefits. FDEP is protected by the three months limitation.)

(53) “Valid Registration” means that applicable registration requirements that are specified in Rule 62-761.400, F.A.C., have been met for all regulated storage tank systems at a facility.

(67) “Vapor Corrosion Inhibitor” (VCI) means a chemical substance that volatilizes from a liquid or solid through vapor pressure and then moves freely within an enclosed airspace where the molecules preferentially adsorb onto metal surfaces and create a protective layer that inhibits the corrosive action of water, oxygen, acid gas molecules, and other corrosive agents with the metal surfaces.

(Includes vapor-corrosion inhibitor technology)

(73) “Vehicular fuel” means a petroleum product used to fuel motor vehicles, including aircraft, watercraft, and vehicles used on and off roads and rails.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, 3-8-94, Formerly 17-761.200, Amended 9-30-96, 7-13-98, 6-21-04,_____.

Substantial rewording of Rule 62-761.210, F.A.C., follows. See Florida Administrative Code for present text.

62-761.210 Reference RequirementsStandards.

(1) Referenced requirements are available for inspection at the County Offices, and the Department of Environmental Protection’s District and Tallahassee Offices, and directly from the source.

(2) Titles of documents. References to documents listed in paragraphs 62-761.210(2)(a) through (l), F.A.C.,



below are made throughout this Chapter. Each document or part thereof is adopted and incorporated as a guideline only to the extent that it is specifically referenced in this Chapter. To the extent that the provisions contained in the following reference requirements conflict with this Chapter, the Department's requirements as stated in this Chapter shall control.

(a) American Petroleum Institute (API), 1220 L Street, N.W. Washington, D.C. 20005, (202) 682-8000, or at <http://www.api.org/>.

1. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996;

2. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011;

3. Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996; and

4. Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006.

(b) ASME International (founded as the American Society of Mechanical Engineers), 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800) 843-2763, or at <http://www.asme.org/>; Process Piping, B31.3-2004, 2012 Edition.

(c) Florida Department of Environmental Protection (DEP), Division of Waste Management, 2600 Blair Stone Road, MS 4500, Tallahassee, Florida 32399-2400, (850) 245-8839; Storage Tank System Closure Guidelines - Closure Evaluation Guidance, or at www.dep.state.fl.us/ (*effective date of the rule*).

(d) NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, (800) 797-6223, or at <http://www.nace.org/>:

1. Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition; and

2. Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition.

(e) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (800) 344-3555, or at www.nfpa.org/:

1. Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition;

2. Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C), 2012 Edition; and

3. Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition.

(f) National Leak Prevention Association (NLPA), Route 2 Box 106A, Falmouth, Kentucky 41040, (702) 832-2260, or at <http://www.nlpa-online.org/>. **National Leak Prevention Association: NLPA Standard 631, "Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage Tanks," Chapter B, 1991.**

(NLPA Standard 631 was omitted and needs inclusion)

(g) National Institute of Standards and Technology (NIST), NIST, 100 Bureau Drive, Stop 1070, Gaithersburg, MD 20899-1070, (301) 975-NIST (6478), or at <http://www.nist.gov/index.html>.

(h) National Work Group On Leak Detection Evaluations (NWGLDE), <http://www.nwglde.org/>

(This group is not "officially" sanctioned by EPA and its members are volunteers. While very knowledgeable and well-intended, they have no legal standing and there is no appellate options if they disapprove of a leak detection method. Government cut-backs are going to continue to make it difficult for members to attend meetings for this group. DEP should not formally link the rule to this organization, but use the group as a technical resource.)

(i) Petroleum Equipment Institute (PEI), Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918) 494-9696, or at www.pei.org/:

1. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition; and

2. Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary



Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition.

(j) Steel Tank Institute (STI), ~~944 Donata Ct, 570 Oakwood Road~~, Lake Zurich, Illinois 60047, (847) 438-8265, or at <https://www.steel tank.com/>:

1. sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013; ~~and~~
2. Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006;:
3. Cathodic Protection Testing Procedures for sti-P3 UST's, STI R051-06, (R051)
4. Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, STI R972; and,
5. Storage Tank Maintenance STI R111, (R111).
6. Specification for External Corrosion Protection of FRP Composite Steel USTs - ACT-100® F894
7. Specification for External Corrosion Protection of Composite Steel USTs - ACT-100-U® F961
8. Permatank®: Specification for Permatank®, F922, January 2013
9. Standard for Dual Wall Underground Steel Storage Tanks, F841, January, 2006

(These standards are all recommended by the Steel Tank Institute as having relevance with the existing rule and for future installations, and the EPA federal UST regulations reference numerous Steel Tank Institute standards. Many underground steel storage tanks installed in Florida were built to these standards and they remain as useful references. Therefore, they should be included as references)

(k) Underwriters Laboratories Standards (UL), 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847) 272-8800, or at www.ul.com/:

1. Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition;
2. Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition;
3. Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition; and
4. External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition.
5. Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems, UL 1856, 2013 Edition.

(Recommend the inclusion for UL 1856 for internal secondary containment.)

(l) U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001, (202) 512-1800, or at www.gpo.gov/:

1. Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST), Title 40, Part 280, July 2008; Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001; and
2. Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001.

(3) Applicability of Reference Requirements: Unless otherwise specified in this Chapter, facilities installed before *(the effective date of the rule)* are subject to the Reference Requirements listed in the Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities installed after *(the effective date of the rule)* shall comply with this subsection on or after *(the effective date of the rule)*.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New12-10-90, Amended 7-13-98, 6-21-04, _____.

62-761.300 Applicability.

(1) General Requirements.:

~~(a) Underground storage tank systems:~~ The requirements of this Chapter, unless specified otherwise, apply to



owners and operators of facilities, ~~and~~ owners and operators of underground storage tank UST systems with individual storage tank capacities greater than 110 gallons, that contain or contained regulated substances;

1. ~~Vehicular fuel, subject to Chapter 17-61, F.A.C., after May 21, 1984;~~

2. ~~Pollutants or hazardous substances after December 10, 1990; or~~

3. ~~Regulated substances in unmaintained storage tank systems.~~

(b) This rule is applicable to non-residential facilities. Under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal UST rules (advisory information only not required by this Chapter).

(2) Exemptions: The following ~~underground systems~~ are exempt from the requirements of this Chapter:

(a) Any storage tank system storing any hazardous waste listed or identified under Subtitle C of the Resource Conservation and Recovery Act, or a mixture of such hazardous waste and other regulated substances;

(b) Any storage tank system regulated under the Toxic Substances Control Act (15 U.S.C. 2065);

(c) Any pesticide waste degradation system regulated under Chapter 62-660, F.A.C.;

(d) Storage tank systems used solely for temporary storage of mixtures of pesticides and diluent for reapplication as pesticides;

(e) Any storage tank system with a storage capacity of less than 30,000 gallons used for the sole purpose of storing heating oil for consumptive use on the premises where stored. ~~“Heating oil” means any petroleum-based fuel used in the operation of heating equipment, boilers, or furnaces;~~

(Recommend leaving it in the definitions section and excluding it here)

(f) ~~Any tank that contains asphalt or asphalt products not containing other regulated substances;~~

(Agree with excluding Asphalt here, but recommend retention in the AST sections)

(g) ~~Any storage tank system storing regulated substances that are solid or gaseous at standard temperature and pressure;~~

~~(h)~~ Any storage tank containing Liquid Petroleum Gas;

~~(g)(i)~~ Any storage tank system that;

1. Contains a regulated substance at a concentration of less than two percent for pollutants and below the reportable quantities for hazardous substances under 40 C.F.R. 302; and

2. Was never previously regulated under Chapter 376.30 through 376.309, F.S. or this Chapter; contains small quantities (de minimus, as per 40 C.F.R. Section 280.10(b)(5)) of regulated substances;

~~(h)(i)~~ Any storage tank system that contains wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;

~~(i)(k)~~ Any septic tank system;

~~(h)~~ Any stormwater or wastewater collection system, including oil-water separator tanks;

~~(m)~~ Any surface impoundment, pit, pond, or lagoon;

~~(j)(n)~~ Any agricultural storage tank system of 550 gallons capacity or less that is used for agricultural purposes;

~~(k)(o)~~ Any residential storage tank system used solely for residential purposes. However, under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal underground storage tank rules;

~~(l)(p)~~ Any emergency spill or emergency overflow containment storage tank system that is emptied as soon as possible after use, and that routinely remains empty;

~~(q)~~ Any flow-through process tank system. For industrial and manufacturing facilities, integral piping is considered to terminate at the forwarding pump or valve used to transfer regulated substances to process, production, or manufacturing points of use or systems within the facility;

~~(m)(r)~~ Any storage tank system, liquid trap, or associated gathering lines directly related to oil or gas production and gathering operations regulated by Chapter 377, F.S.; however, this exclusion does not apply to storage tanks that contain refined products;

~~(n)(s)~~ Any ~~e~~Equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift or fluid tank systems that hold hydraulic fluid for closed-loop mechanical systems used to operate lifts, elevators, and other similar devices and cooling oil (dielectric fluid) systems used for electrical equipment and electrical equipment tank systems;



~~(o)(t)~~ Any pipeline, piping and “break-out” tanks directly connected to the pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration, pursuant to Title 49, Parts 190-199 of the Code of Federal Regulations facilities;

~~(p)(u)~~ Any storage tank system containing radionuclides or that is part of an emergency generator system for nuclear power generation at facilities regulated by the Nuclear Regulatory Commission under 10 C.F.R. Part 50 Appendix A;

~~(q)(v)~~ Any vapor recovery holding tanks and associated vapor recovery piping systems; or

~~(r)~~ Any storage tank system containing biofuel that has a concentration of regulated substance of five percent or less by volume.

~~(w)~~ Any rail or tanker truck loading or unloading operations (loading racks) specified in Chapter 5 of NFPA 30.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.300, Amended 7-13-98, 6-21-04, _____.

62-761.350 Operator Training and Certification (Reserved for Rulemaking)

62-761.400 Registration and Financial Responsibility.

(1) For installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction begins.

(b) A completed Form 62-761.900(2), Storage Tank Facility Registration Form (Registration Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the Department no later *than seven days before installation, or no later than 2140* days after installation notification to the County pursuant to Rule 62-761.405, F.A.C. Copies of the Registration Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(The current rule allows Registration 30 days after regulated or hazardous substances are put into any new storage tank system. The proposed rule requires submittal of the Registration Form 10 days after Installation Notification, which is 30 to 45 days before installation. This means an owner may have to submit the registration form 20 to 35 days before installation, a difference of 50 to 65 days before the existing rule. What is the rush? With the new requirements for Operator Training and Delivery Prohibition, it is understandable that the DEP would want registration prior to Operation, but this paperwork takes time for owners to complete. It is recommended that this date be changed to “no later than seven days before installation, or no later than 21 days after installation notification”)

(c) A completed Form 62-761.900(5), Underground Storage Tank System Installation and Removal Form for Certified Contractors (Certified Contractors Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the County no later than 10 days after installation of a storage tank system. Copies of the Certified Contractors Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or, www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(2) For change in service status or closure pursuant to Rule 62-761.800, F.A.C.:

(a) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days after completion of the change in service status.

(b) A completed Certified Contractors Form shall be submitted to the County in paper or electronic format no later than 10 days after removal of a storage tank system.

(3) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days of the following changes or discovery:

(3) Financial responsibility.

(a) Any change in the owner or operator of a facility or of a storage tank system.

(a) General requirements.



1. ~~The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance. Financial responsibility is only required for tanks containing petroleum or petroleum products. Financial responsibility is the ability to pay for corrective action and third-party liability resulting from a discharge at the facility.~~

2. ~~The demonstration of financial responsibility shall be made by the owner or operator in accordance with C.F.R. Title 40, Part 280, Subpart H.~~

3. ~~Financial responsibility requirements for petroleum storage systems containing petroleum products may be supplemented by participation in the Florida Petroleum Liability Restoration and Insurance Program to the extent provided by Section 376.3072, F.S.~~

4. ~~Notwithstanding the owner's or operator's financial responsibility status, the owner or operator may, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.~~

(b) Any change or correction in the information reported in the Registration Form. A change within the same blend of regulated substances should not be reported (e.g., regular unleaded to premium unleaded gasoline);

(b) The minimum requirements for financial responsibility for USTs containing petroleum or petroleum products shall be the same as provided by C.F.R. Title 40, Part 280, Subpart H.

(c) A change from a regulated substance to a non-regulated substance; and

(d) The discovery of an unregistered storage tank system.

(1) General registration requirements.

(a) The owner or operator of any facility, or the owner or operator of a storage tank system shall register the storage tank system with the Department on Form 62-761.900(2).

(b) A completed registration form shall be submitted to the Department no later than 30 days after regulated or hazardous substances are put into any new storage tank system.

(4)(2) Registration fees.

(a) Registration fees are due from the tank or facility owner or operator, as indicated in this section, for all registered storage tank systems required to be registered. Registration fees except for storage tank systems that have been properly closed in accordance with subsection 62-761.800(2), F.A.C., will no longer be due once any outstanding fees have been paid.

(b) A registration fee of \$50.00 per tank or vessel shall be submitted for each initial registration of a storage tank system. The fee shall be paid within 30 days after receipt of an invoice by the Department.

(c) A renewal fee of \$25.00 per tank shall be paid to the Department for each storage tank system not meeting the closure requirements of subsection 62-761.800(2), F.A.C. by July 1 each year.

(d) A replacement fee of \$25.00 per tank shall be paid to the Department for each tank that is replaced for the purpose of facility upgrading, within 30 days after receipt of an invoice by the Department.

(e) A late fee of \$20.00 per tank shall be paid to the Department for any renewal that is received after July 31.

(f) Upon receipt of payment of all applicable initial registration fees and annual renewal fees, each facility shall receive a valid registration placard, pursuant to Section 376.3077, F.S. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the storage tank system is located. Posted on the Department website will be information regarding those motor fuel facilities who have not timely paid their registration fees. Each facility shall receive a registration placard upon payment of all applicable fees. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the tank is located.

(5) Unless a valid registration placard is displayed in plain view as required by paragraph 62-761.400(4)(f), F.A.C., no motor fuel may be deposited into a storage tank required to be registered pursuant to this Rule. Facility owners, operators and suppliers are each responsible for compliance with this provision.

(6) Revocation of Registration Placard. (Reserved for Rulemaking)

(7) Delivery prohibitions. (Reserved for Rulemaking)

Rulemaking Specific Authority 376.303, 376.322(2) FS. Law Implemented 376.303, 376.309, 376.323, 376.3077 FS. History—New 12-10-90, Formerly 17-761.400, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.405 Notification.

(1) For Installations:



(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction will begin.

(b) Notification shall be received by the County in writing or electronic format between 30 and 45 days before installation of a storage tank system or system component unless the County agrees to a shorter time period.

(c) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the installation work to confirm the date and time of the scheduled activities.

(2) For change in service status closure, or closure evaluation:

(a) Notification shall be received by the County in writing or electronic format between 10 and 25 days before the initiation of the work unless the County agrees to a shorter time period.

(b) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the initiation of the work to confirm the date and time of the scheduled activities.

(3) Notification of the discovery of an incident shall be made to the County in writing or electronic format on Form 62-761.900(6), Incident Notification Form (INF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 72 hours; however an INF need not be submitted if, within 72 hours of discovery, the investigation of the incident in accordance with Rule 62-761.430, F.A.C., confirms that a discharge did or did not occur. Copies of the INF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(4) Notification of the discovery of a discharge shall be made to the County in writing or electronic format on Form 62-761.900(1), Discharge Report Form (DRF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 24 hours **or before the close of the next business day**. Copies of the DRF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(Retains the existing language)

(5) Notification is not required for Temporary Out-of-Service status, or for minor repairs to dispensers, submersible turbine pumps, sumps, or other storage tank system equipment.

(Clarifies that minor repair work and TOS requires no notification)

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.450, 62-761.450, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.420 Financial Responsibility.

(1) Financial responsibility is the ability to pay for cleanup of a discharge and third-party liability resulting from a discharge of petroleum or petroleum product at the facility.

(2) The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department for all storage tank systems until they are properly closed. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance.

(3) The demonstration of financial responsibility for storage tank systems shall be made available for inspection by the Department or the County and shall be in accordance with Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST) – Financial Responsibility, Title 40, Part 280, Subpart H, July 2008, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, hereby adopted and incorporated by reference, and is available from the address given.

(Why was sub-paragraph (4) included in the AST rule and excluded in the UST rule?)

(4) Notwithstanding the owner's or operator's financial responsibility status, the owner and operator shall, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.



Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.309 FS. History-New

62-761.430 Incidents.

(1) Incidents include:

(a) The following positive responses of release detection devices or methods described in Rule 62-761.600, F.A.C.:

1. Any visual inspection of **any part of** a storage tank system, **dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances** that reveals **pitting corrosion with more than a fifty percent loss of its original design thickness, or cracking, splitting, blistering, delamination, softening** ~~signs of corrosion, cracks,~~ structural damage, leakage, or other similar problems **with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C.:**

(Cracks are usually seen within FRP and Polyethylene storage tank systems. What about incompatible issues, such as blistering, linings that are no longer adhering, or delamination? The proposed language in red will minimize potential inspector interpretation or judgment issues that have been a problem in the past, e.g. surficial rust on submersible turbine pumps, electrical conduits, piping sump hardware, or minor surficial rust on piping in sumps. This will allow the Department to focus on problems that are truly incidents.)

2. Any visual observation of regulated substances in a piping or dispenser sump;

3. Any alarm that indicates that liquid, vacuum, or pressure monitoring levels are not being maintained, or that liquid **other than de minimus levels of condensate** has been detected by a sensor in a normally dry interstice;

(Recognizes the inevitable presence of small amounts of condensate without missing a true incident)

4. Any visual observation that indicates that liquid monitoring levels are not being maintained;

5. Any vacuum or pressure change of **50% ~~10%~~** from one month to the next, or any cumulative change of vacuum or pressure exceeding **50% ~~10%~~** of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge;

(Recognizes real-world problems with fluctuations in vacuum and pressure without sacrificing environmental protection. I've seen significant changes from atmospheric pressure, the weight of the product in the tank, and daily temperature variations that affect vacuum and pressure gauges. If there is a leak at all, you will not be able to hold any vacuum, and the 50% level is a reasonable threshold. Also, having to refresh the vacuum at 50% is more cost effective)

6. Any visual inspection that indicates the presence of water **other than de minimus levels of condensate** and/or regulated substances in the interstice;

(Recognizes the inevitable presence of small amounts of condensate)

7. Any instance where a mechanical line leak detector is restricting flow;

8. Any instance where an electronic line leak detector has shut off power to the pump;

9. Any instance where a monitoring device has shut off the pump; and

10. Liquid in excess of one inch in an out-of-service storage tank.

(b) A failed integrity test for the following components:

1. Double-walled storage tanks;

2. Double-walled integral piping;

3. Piping sumps;

4. Dispenser sumps; and



5. Spill containment systems.

(c) Other unusual operating conditions, such as the erratic behavior of product dispensing equipment, the sudden loss of product from a storage tank system, or any unexplained presence of water in a tank or an interstitial space;

(d) The presence of odors of a regulated substance from surface water or groundwater, soil, basements, sewers and utility lines at a facility; and

(e) The loss of a regulated substance from a storage tank system, such as from an overflow, exceeding 25 gallons on impervious surfaces, other than secondary containment, provided that the loss does not come in contact with pervious surfaces.

(2) If an incident occurs at a facility, actions shall be taken within 24 hours of discovery to investigate the incident to determine if a discharge has occurred.

(3) Notification of the discovery of any incident shall be made to the County in writing or electronic format on an INF within 72 hours. However, an INF is not required to be submitted if, within 72 hours of discovery, the investigation of the incident confirms that a discharge did or did not occur.

(4) In cases where an INF is required to be submitted, the investigation shall be completed within 14 days of the date of discovery of the incident to determine if a discharge has occurred. Incident investigations that require additional time can be extended with the written approval of the Department or the County. However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system shall be placed out-of-service until such time the investigation is completed and resolved.

(5) At the end of the 14 day time period, or at the end of the alternate time period approved by the Department or the County to investigate the incident, either a DRF or a written confirmation and explanation that the incident was not a discharge shall be submitted to the County in writing or electronic format.

(6) The removal of any spill or loss of regulated substance into secondary containment shall be initiated within three days of discovery, and completed within thirty days of discovery.

(7) If a discharge is discovered at any time during the incident investigation, the discharge shall be reported on a DRF within 24 hours of discovery or before the close of the next business day, and a discharge response shall be initiated in accordance with subsection 62-761.440(6), F.A.C.

(8) All incidents, regardless of whether an INF is required to be submitted, shall be documented and records kept until storage tank system closure in accordance with Rule 62-761.710, F.A.C. Test results or reports, which support the investigation findings, shall be maintained as records.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History–New

62-761.440 Discharges.

(1) Discharges include:

(a) Laboratory analytical results of surface water or groundwater samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C.;

(b) Laboratory analytical results of soil samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C. that exceed the lower of direct exposure residential or leachability based on groundwater criteria cleanup target levels in Chapter 62-777, F.A.C.;

(c) The presence of free product, a visible sheen, sludge, or emulsion of a regulated substance, or a regulated substance that is visibly observed in soil, on or in surface water, in groundwater samples, on basement floors, in open drainage ditches, in open excavations or trenches, in subsurface utility conduits or vaults, or in sewer lines at the facility; and

(d) A spill or overflow of a regulated substance to a pervious surface.

(2) Upon discovery of a discharge, the owner or operator shall report the discharge to the County on a DRF within 24 hours or before the close of the County's next business day.

(3) Copies of laboratory analytical results that confirm a discharge shall be submitted to the County within 24 hours of receipt of the results or before the close of the next business day in writing or electronic format.

(4) A request for a retraction of a submitted DRF shall be submitted to the County or the Department in writing or electronic format if evidence is presented that a discharge did not occur at the facility.

(5) A DRF does not need to be submitted:

(a) For a discharge that was previously reported to the appropriate County on a DRF;

(b) For petroleum or petroleum product de minimis discharges in accordance with Rule 62-780.560, F.A.C., unless the regulated substance has a more stringent reporting requirement specified in the following document which



is hereby adopted and incorporated by reference, and is available from the address given: Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001; or

(c) For ~~non-petroleum~~ ~~nonpetroleum~~ de minimis discharges in accordance with Rule 62-780.550, F.A.C., unless the pollutant has a more stringent reporting requirement specified in Title 40, Part 302.

(Typo)

(6) Discharge response.

(a) When evidence of a discharge from a storage tank system is discovered, the following actions shall be taken:

1. Fire, explosion, and vapor hazards shall be identified and mitigated;
2. Actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules (e.g., Chapter 62-780, F.A.C., Contaminated Site Cleanup Criteria). Owners and operators are advised that other federal, state, or local requirements apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with Chapter 62-780, F.A.C.;
3. Each component of the storage tank system shall be integrity tested within three days of discovery of the discharge if the source and/or cause of the discharge is unknown;
4. The storage tank system component that is discharging shall be isolated from the system within three days of discovery of the discharge. If the component cannot be isolated from the system, within three days of discovery of the discharge the storage tank system shall not operate, dispense, or accept deliveries, or shall be placed out-of-service in accordance with Rule 62-761.800, F.A.C., until the component can be repaired or replaced;
5. If the storage tank system component that was found to be discharging will be repaired, it shall be repaired in accordance with Rule 62-761.700, F.A.C.;
6. If the storage tank system component that was found to be discharging will be replaced, it shall meet the storage tank system requirements in accordance with Rule 62-761.500, F.A.C.; and
7. If the storage tank system component that was found to be discharging will not be repaired or replaced, the storage tank system, if not already out-of-service, shall be placed out-of-service within 90 days or be closed in accordance with Rule 62-761.800, F.A.C.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History–New _____.

62-761.450 Notification and Reporting.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.450, Amended 9-30-96, 7-13-98, 6-21-04., Repealed _____.

Substantial rewording of Rule 62-761.500, F.A.C., follows. See Florida Administrative Code for present text.

62-761.500 ~~Performance Standards for Category C Storage Tank Systems~~ Requirements.

(1) General requirements.

(a) Wellhead Protection. Persons are advised that Chapter 62-521, F.A.C., contains restrictions regarding the location of storage tank systems within 500 feet of a potable water well.

(b) Secondary containment.

1. The materials used for secondary containment shall be:

a. Impervious to the regulated substance and able to withstand deterioration from external environmental conditions;

b. Non-corrosive or of corrosion-protected materials; and

c. Of sufficient thickness and strength to withstand hydrostatic forces at maximum capacity to prevent a discharge.

2. For cathodically protected tanks and integral piping, secondary containment systems shall not interfere with the operation of the cathodic protection system.



3. For VCI protected tanks, the secondary containment system shall provide containment for the vapor corrosion inhibitors.

(Includes vapor-corrosion inhibitor technology)

3. Secondary containment systems shall be designed and installed to direct any release to a monitoring point or points.

4. Containment and interstitial, as applicable, integrity tests shall be performed for all spill containment systems, piping sumps, hydrant sumps, and dispenser sumps before placing the components into initial use. The tests shall be in accordance with manufacturer's requirements. If a hydrostatic test is used, it shall be performed for at least:

- a. Twenty-four hours for field-fabricated components; or
- b. Three hours for factory-made components.

5. An interstitial integrity test shall be performed on the storage tank after it is delivered to the **or installed at the** facility and before the storage tank is placed into service. This test shall be performed in accordance **with manufacturer's requirements and** with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition, Petroleum Equipment Institute (PEI), Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380, and Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition, Petroleum Equipment Institute (PEI) Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380.

(Clarification)

6. An interstitial integrity test shall be performed on integral piping in accordance with PEI/RP100-11 and PEI/RP1200-12 before the integral piping is placed into service.

7. An interstitial integrity test shall be performed on double-walled spill buckets or double-walled sumps in accordance with PEI/RP1200-12 before the component is placed into service.

(Note – double-wall spill buckets or piping sumps are not required by rule or statute. However, if an owner chooses to install a double-wall spill bucket or piping sump, it makes sense to perform a test at installation, but not at any other time.)

(c) Cathodic protection.

1. Test stations. Cathodic protection systems shall be designed, constructed, and installed with test stations in accordance with NACE standards contained in paragraph 62-761.210(2)(d), F.A.C. Cathodic protection test stations shall provide direct access to the soil in close proximity to each cathodically protected structure for placement of reference electrodes, and monitoring wires that connect directly to cathodically protected structures. Facilities where direct access to soil in close proximity to cathodically protected structures is present, and where electrical connections to cathodically protected structures can be conveniently accomplished, need not have separate dedicated cathodic protection test stations.

2. The cathodic protection system shall be operated and maintained in accordance with subsection 62-761.700(2), F.A.C.

3. Any field-installed cathodic protection system shall be designed and installed by or under the direction of a Corrosion Professional.

4. Cathodic protection is not required for any underground storage tanks with field-fabricated internal secondary containment that is self-structural without any structural support from the host tank.

(Internal secondary containment systems that are self-structural are dependent on a steel tank host and will not require cathodic protection)

5. Supplemental anodes that are added to a sti-P3 tank can be installed according to STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs .



(Correct reference)

(d) Corrosion Protection with Vapor Corrosion Inhibitors (VCI)

1. Testing locations for vapor corrosion inhibitors. Vapor Corrosion Inhibitor technologies registered with the Department in accordance with Rule 62-762.851(2), F.A.C. provide an alternative to cathodic protection for protection of metal surfaces within secondary containment. Vapor corrosion inhibitors (VCI) effectiveness shall be established by the use of electrical resistance probes located in testing locations as recommended by a Corrosion Professional to monitor corrosion rates. Electrical resistance (ER) probes must be able to determine corrosion rates based on the increase in electrical resistance over time of a metal element on the probe surface where the metal loss in the element's cross-sectional area from corrosion will be accompanied by a proportional increase in the element's electrical resistance. If electrical resistance probes cannot be incorporated into the VCI protection system, then an alternate method as recommended by a Corrosion Professional shall be used.

2. Any field-installed VCI protection system shall be designed and installed by or under the direction of a Corrosion Professional and the VCI manufacturer's certified installer. The VCI protection system shall be operated and maintained in accordance with subsection 62-762.701(3), F.A.C.

(Language needed to allow the use of corrosion protection systems previously approved by the Department that are equivalent to cathodic protection systems for USTs)

(d) Compatibility. The primary and secondary walls of storage tank systems shall be made of, or internally lined with, materials that are compatible with the regulated substance stored in the storage tank systems and with substances or conditions present in the environment. All storage tank systems containing blends of ethanol, biodiesel, or other biofuels and additives shall be compatible with the regulated substances stored in the storage tank systems.

(e) All components of a storage tank system shall be installed in accordance with the manufacturer's instructions.

(f) All storage tank systems shall be installed in accordance with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070.; Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Process Piping, B31.3-2004, 2012 Edition, ASME International (founded as the American Society of Mechanical Engineers), Published by ASME, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900; and PEI/RP100-11. **Storage tanks with field-fabricated internal secondary containment shall be installed in accordance with manufacturer's specifications, UL 1856, and NLPA 631.**

(The rule needs to include the reference standards associated with internal secondary containment)

(g) A Certified Contractor shall perform the installation of storage tank systems containing pollutants, including tanks, integral piping (excluding drop tubes), overfill protection and spill containment equipment, internal release detection equipment, cathodic protection systems, secondary containment systems, and dispensing systems, if the installation of the storage tank system component disturbs the backfill, or where the integral piping is connected or disconnected during installation.

(h) Whenever storage tanks and/or integral piping are installed, modified or relocated after the effective date of this rule, Record Drawings ("as-builts"), signed and sealed by a professional engineer licensed in the state of Florida, shall be completed and maintained as a record in accordance with Rule 62-761.710, F.A.C. The as-built drawing shall include all construction and equipment design specifications including exact dimensions, geometry, and locations of the storage tanks and/or integral piping, of the work completed under contract, and any changes made to the original specifications during the construction process. **As-built drawings are not required for**



tanks that are installed or retrofitted with internal secondary containment.

(Note – the requirement for “As-builts” only makes sense for UST systems, but it will add an additional cost. The increase in costs should be quantified before the passage of the rule to determine if there is a significant environmental benefit for the extra cost. Also, tanks with internal secondary containment using the Phoenix, ZCL, Petrofuse, or Tank Tech Stand-Alone systems do not need to supply as-builts.)

(2) Storage Tanks.

(a) All storage tanks at a facility shall have secondary containment and shall be constructed or installed to provide for interstitial monitoring of the entire storage tank.

(b) Fiberglass reinforced plastic double-walled tanks shall be constructed in accordance with the following document, Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition, Underwriter’s Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference and available at the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(c) Cathodically protected double-walled steel tanks shall be:

1. Constructed in accordance with the following documents, or as applicable: Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition, Underwriter’s Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, and External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition, Underwriter’s Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and are available from the addresses given;

2. Constructed in accordance with the following document, sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given; or

3. Constructed in accordance with the following document, STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given; or

(This RP fulfills the requirements of c.3 specifically for the STI sti-P3 cathodic protected tank)

3. Certified by a Nationally Recognized Testing Laboratory for any field-installed cathodic protection system, that these requirements are met, constructed and designed by a Corrosion Professional in accordance with the following document, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and is available from the address given.

(d) Double-walled steel tanks coated with a fiberglass reinforced plastic composite shall be constructed in accordance with UL 58 and UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(e) Jacketed steel tanks shall be constructed in accordance with UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(Paragraph (d) precludes the use of jacketed tanks. These are steel tanks with an outer non-metallic tank that provides both corrosion protection and secondary containment. These tanks are built to UL 1746 and should be included as a new paragraph (e).)

(f) Underground storage tanks with field-fabricated internal secondary containment shall be:

1. Installed in accordance with manufacturer’s specifications and NLPA 631 and UL 1856;



2. Either be a self-structural design that has no structural contribution from the host tank, or a co-structural design that has shared structural support from the host tank with the retrofit system; and
3. Must be registered in accordance with Rule 62-762.850(2), F.A.C.

(Internal secondary containment has been around a long time in Florida and should be listed in the rules as a viable option for secondary containment)

(e) Double-walled storage tanks that meet the above performance requirements, that are constructed of equivalent material, have an equivalent design, or are corrosion protected shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(f) Tanks shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(g) Double-walled storage tanks that have been removed and that are to be reinstalled at a different location shall:

1. Be recertified that all original warranties are confirmed by the original manufacturer or the manufacturer's successor, and be reinstalled in accordance with the requirements in this section; or

2. Be recertified by a professional engineer licensed in the state of Florida that the storage tank meets all applicable requirements of this section; and

3. Proof of recertification shall be provided to the Department and County prior to the start of installation. The storage tank shall be re-registered in accordance with subsection 62-761.400(1), F.A.C.

(3) Integral piping.

(a) All integral piping, including remote fill piping that is in contact with the soil shall have secondary containment; or

(b) All integral piping that transports regulated substances over surface waters of the state shall have secondary containment and shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials; or

(c) All integral piping that is not in contact with the soil shall meet the construction requirements in paragraphs 62-761.500(3)(d)2. through 4., F.A.C., shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials.

(d) Construction requirements.

1. Fiberglass reinforced plastic integral piping or other non-metallic double-walled integral piping installed in contact with the soil at a facility shall meet the requirements of Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.

2. Coated steel double-walled integral piping shall be constructed in accordance with ASME B31.3. In addition, steel integral piping in contact with the soil shall be cathodically protected in accordance with the following documents: Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070; Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906; and Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and available from the addresses given.

3. Metallic double-walled integral piping constructed of nonferrous materials such as copper shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, Piping Systems.

4. Integral double-walled piping constructed of other materials, design, or corrosion protection shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(e) Integral piping shall be installed with a slope to a low point monitoring system to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(f) Pressurized integral piping systems connected to dispensers shall be installed with shear valves or emergency shutoff valves in accordance with Section 6.3 of NFPA 30A, Requirements for Dispensing Devices.



These valves shall be designed to close automatically if a dispenser is displaced from its normal position. The valves shall be rigidly anchored independently of the dispenser. The valves shall be tested in accordance with PEI/RP1200-12 at the time of installation by a certified contractor to confirm that the automatic closing function of the valve operates properly and that the valve is properly anchored.

(g) All storage tanks located at an elevation that produces a gravity head on the dispenser or on integral piping positioned below the product level in the storage tank must be installed and maintained with an isolation block valve in accordance with Chapter 22.13 of NFPA 30, Tank Openings Other Than Vents, and located as close as practical to the storage tank. In addition, anti-siphon valves for suction and pressurized systems with dispensers that are subject to NFPA 30A, shall be installed and maintained in accordance with Section 11.2 of NFPA 30A, Marine Fueling - Storage. Storage tank systems without dispensers shall be installed with valves that will prevent the tanks from emptying if there is a leak or break in the integral piping.

(h) Pressurized integral piping systems connected to dispensers shall be installed with a method of leak detection that can detect a leak within one hour, and can be either a mechanical line-leak detector or an electronic line leak detector, or another device registered in accordance with Rule 62-761.850(2)F.A.C.

(Ought to be in this section as well as Section 600 to make it clear to owners and operators)

(i) Storage tank systems using corrosion protection systems with vapor corrosion inhibitors that are registered in accordance with Rule 62-762.851(2), F.A.C. shall be designed and installed under the direction of a Corrosion Professional and shall be installed with at least one electrical resistance probe test location or a method of monitoring to allow for a determination of the corrosion rate within the interstitial space or metallic surface within a contained area. The VCI system shall be designed and installed in accordance with the requirements specified in Rule 62-762.701(2), F.A.C.

(Allows the use of VCI's for interstitial corrosion protection)

(4) Spill containment systems.

(a) Storage tank systems shall be installed with a spill containment system at each tank fill connection meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C..

(b) Fillbox covers shall be marked or the fill connection tagged in accordance with Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, hereby adopted and incorporated by reference, and is available from the address given, or with an equivalent method approved by the Department in accordance with subsection 62-761.850(1), F.A.C.

(c) Spill containment systems, ~~including double-walled spill containment systems~~, shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. **Double-wall spill containment systems are not required to perform interstitial integrity tests or monthly interstitial monitoring observations, and are considered single-wall spill buckets for the purpose of this rule.**

(Note – double-wall spill buckets are not required by rule or statute. If an owner chooses to purchase double-wall spill containment, it makes sense to perform a test at installation in accordance with manufacturers specifications, but owners should not be punished with extra costs if they have double-wall spill buckets. DEP should not require monthly interstitial monitoring or interstitial B.O.I.'s after installation unless an owner chooses to perform one instead of a hydrostatic test of the primary.)

(5) Dispensing systems and dispenser sumps.

(a) The dispensing system used for transferring fuels from storage tanks to vehicles or portable containers shall be installed and maintained in accordance with the provisions of NFPA 30 and Chapter 6, Fuel Dispensing Systems; Chapter 9, Operational Requirements; and Chapter 11, Marine Fueling of NFPA 30A.



(b) Dispensers shall be installed with a dispenser sump meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C. The dispenser sump shall extend beneath the union of the integral piping and the dispenser, including the shear valve, if applicable.

(c) Dispenser sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. The dispenser sump shall be capable of containing a release for the entire area beneath the dispenser.

(6) Piping sumps.

(a) Piping sumps shall meet the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and be registered in accordance with subsection 62-761.850(2), F.A.C. The sumps shall be designed, constructed, and installed to minimize water entering the sump.

(b) Piping sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(7) Overfill protection.

(a) Owners or operators shall ensure that the volume available in the storage tank is greater than the volume of regulated substances to be transferred to the storage tank before the transfer is made and shall ensure that any transfer is repeatedly monitored to prevent overfilling and spilling.

(b) Storage tank systems shall be equipped with an overfill device that:

1. Automatically shuts off flow to the storage tank when the storage tank is no more than 95% full;
2. Restricts flow to the storage tank when the storage tank is no more than 90% full and does not fill the storage tank beyond 95% capacity. Vent restriction devices such as ball float valves shall not be installed at facilities after *(the effective date of the rule)* unless the storage tank system meets the requirements of Section 7 of PEI/RP 100-11, UST Overfill Equipment Verification, Inspection and Testing; or
3. Alerts the transfer operator when the tank is no more than 90% full by triggering an alarm and does not fill the tank beyond 95% capacity.

(c) Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.

(d) Storage tank systems with capacities of 2000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser are exempt from overfill protection requirements provided that the tanks are never filled beyond 80% capacity.

(e) Overfill devices shall be registered in accordance with subsection 62-761.850(2), F.A.C.

(f) New day tanks shall be installed with an overfill protection system that returns the regulated substance to the storage tank from the day tank through separate integral piping.

(g) All new float control valves installed on day tanks and all overfill alarms on storage tanks shall be tested annually at intervals not exceeding 12 months to demonstrate the float control valve or alarm is operating as designed. These records shall be kept for five years in accordance with Rule 62-761.710, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.500, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.510 Performance Standards for Category-A and Category-B Storage Tank Systems

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303-.3072 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.510, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.600 Release Detection Requirements Standards.

(1) General requirements.

(a) Storage tank systems shall have a method, or combination of methods, of release detection that:

1. Can detect a new release from any portion of the storage tank system;

(b) Any storage tank system without a method, or combination of methods, of release detection in accordance with this section, shall immediately provide a method of release detection, or immediately empty the storage tank system and place the affected system out-of-service, or close the system in accordance with subsection 62-761.800(2), F.A.C.

(c) Any component of a storage tank system with an interstice shall have a method of interstitial monitoring.

Interstitial monitoring can be performed with vacuum, pressure, hydrostatic (liquid-level sensing), sensors or probes, and visual release detection methods.

(Clarification)



2. Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability to ensure that the device is functioning as designed; and

3. Meets the applicable performance standards in Rule 62-761.640, F.A.C. All manufacturer's instructions, and the performance claims and their manner of determination described in writing by the equipment manufacturer or installer shall be retained for as long as the storage tank system is used.

(b) A release detection response level shall be described in writing for each method or combination of methods of release detection used for a storage tank system.

(c) A release detection method shall be established and provided for all storage tank systems upon installation.

(d) Except as otherwise specified in this Rule Rules 62-761.600-.640, F.A.C., the release detection method or combination of methods used at a facility shall be performed at least once every a calendar month, but not exceeding 35 days, to determine if a release from the storage tank system has occurred.

(e) Visual inspections. Any Every component of a storage tank system that contains, transfers, or stores, or is designed to contain, transfer, or store pollutants that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of any component a storage tank system, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances that reveals pitting corrosion with more than a fifty percent loss of its original design thickness, or cracking, splitting, blistering, delamination, softening signs of corrosion, cracks, structural damage, leakage, or other similar problems with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C. is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. Repairs shall be made in accordance with Rule 62-761.700, F.A.C. A monthly visual inspection is not required for any system component using an electronic release detection method, but piping sumps must be visually inspected every six months and records kept of the visual inspection. At least once a month, but not exceeding 35 days, any storage tank and component of a storage tank that can be inspected visually shall be visually inspected in accordance with paragraph 62-761.640(2)(e), F.A.C. A visual inspection is not required for any system component that has a continuous or monthly electronic release detection sensor. Continuous electronic leak detection devices shall be inspected for proper operation on a monthly basis. Inspection may consist of visual observation or remote verification of proper operation.

(Same language as used in the INF section, and will ensure that only bonafide incidents will be reported, and that minor ethanol-induced corrosion will not be included. The proposal for semi-annual visual inspections of piping sumps is a safeguard for faulty sensors)

(f) Electronic and mechanical release detection devices shall be:

1. Installed, calibrated, operated and maintained in accordance with the manufacturer's instructions and shall be designed and installed to provide service checks for operability to ensure that the device is functioning in accordance with subsection 62-761.700(3), F.A.C.; and

2. Registered in accordance with subsection 62-761.850(2), F.A.C., except that controllers or annunciators that are used to display leak detection test results are not required to be registered. A site suitability determination shall be performed for UST systems by December 31, 1998, in accordance with paragraphs 62-761.640(2)(a)-(d), F.A.C., for storage tank systems using groundwater or vapor monitoring wells for release detection. If the site suitability determination indicates that on-site conditions are unsuitable for external monitoring, another method of release detection must be used.

(g) Electronic release detection devices shall be inspected for proper operation at least once every calendar month, but not exceeding 35 days. A record or summary of the alarm history, sensor status and testing results related to potential releases shall be printed from any electronic release detection device. If the release detection system is not capable of printing records, a manual log shall be maintained of the alarm history, sensor status and testing results. Vapor monitoring plans shall be performed by December 31, 1998, for UST systems, in accordance with paragraph 62-761.640(2)(d), F.A.C., for storage tank systems using vapor monitoring for release detection.

(h) Release detection shall be constructed and installed so that groundwater, rainfall, or soil moisture will not render the release detection method used inoperable. Any component of a storage tank system with secondary containment shall have an interstitial monitoring method meeting the requirements of paragraph 62-761.640(3)(a), F.A.C.

(i) Storage tank systems that store fuel solely for use by emergency power generators shall comply with the



release detection requirements of Rule 62-761.600, F.A.C., within 90 days of the effective date of the Rule. Pressurized piping, excluding bulk product piping, shall be equipped with a line leak detector that meets the standards of paragraph 62-761.640(4)(a), F.A.C. Gravity piping systems are exempt from this requirement.

(2) Storage Tanks.

(a) One or more of the following release detection methods shall be used:

1. Liquid level monitoring systems with electronic hydrostatic sensors. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid levels can not be maintained. Any alarm that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Vacuum monitoring. This method shall be able to detect incidents by determining changes in vacuum levels within the interstice by continuous monitoring of vacuum levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if vacuum levels can not be maintained. Any alarm that indicates that vacuum levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

3. Pressure monitoring. This method shall be able to detect incidents by using an inert gas and determining changes in pressure levels within the interstice by continuous monitoring of pressure levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if pressure levels can not be maintained. Any alarm that indicates that pressure levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

4. Electronic sensors in a normally dry interstice. This method shall be able to detect the presence of liquid in the interstice or monitoring low point and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid is detected. Any alarm that indicates the presence of liquid is considered a positive response, *and except for liquids confirmed as de minimus amounts of condensate, the* ~~The~~ positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(Recognizes the common reality of small amounts of interstitial condensate)

5. Visually inspected liquid level monitoring systems. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir. Any visual observation that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

6. Visually inspected vacuum or pressure monitoring with gauges. This method shall be able to detect incidents by determining changes in vacuum or pressure levels within the interstice.

a. Vacuum or pressure readings shall be able to detect a ~~50~~ *40*% change from one month to the next, or any cumulative change of vacuum or pressure exceeding ~~50~~ *20*% of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge. Vacuum or pressure refreshment must be performed in accordance with manufacturer's specifications and the system's equipment registration in subsection 62-761.850(2), F.A.C. Any change indicated above is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(Release detection with gauges for USTs with double-walls, as well as associated integral piping, is often difficult because of variable influences and factors such as temperature, humidity and water in the piping sump, atmospheric pressure, and piping runs that go above and below ground. Small changes in vacuum and pressure are inevitable, and the 50% proposal will assist with the range of fluctuations that can occur. If there is a hole or breach in the system, it will not be able to hold ANY vacuum).



b. Liquid-filled gauges shall be calibrated using NIST traceable standards prior to initial operation. The gauges shall be operational at all times.

7. Visual monitoring of normally dry interstices. This method shall be able to detect the presence of liquid at a low point of the interstice. Any presence of water and/or regulated substances in the interstice **other than deminimus levels of condensate** is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(Recognizes the inevitable presence of small amounts of condensate)

8. Visual monitoring of liners. This method shall be able to detect the presence of liquid at a low point of the liner. The accumulation of water or condensation in the low point of the liner shall not interfere with the ability to detect regulated substances. Any **evidence of petroleum-stained containment surfaces, free product, or leaking of regulated substances from any part of a storage tank system secondary containment presence-of-regulated-substances** in the liner is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(If left unchanged, the “any presence” requirement could be interpreted by inspectors as a slight sheen from a couple of drops of fuel released when a fuel filter was changed. It would create incidents at nearly every facility in Florida)

(3) Integral piping with secondary containment.

(a) One or more of the release detection methods in subsection 62-761.600(2), F.A.C., shall be used.

(b) In addition, pressurized small diameter integral piping in contact with the soil shall be equipped with a release detection system that can detect a leak within one hour. One of the following methods shall be used:

1. Mechanical line leak detectors. Mechanical line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and restrict flow within one hour. Any instance where the mechanical line leak detector is restricting flow is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Electronic line leak detectors. Electronic line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and shut off power to the pump. Any instance where the electronic line leak detector has shut off power to the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. **Monthly release detection printed tapes from automatic tank gauges for electronic line leak detectors are not required to be kept as records to demonstrate compliance. However, if electronic or printed data from an electronic line leak detector indicates a potential incident has occurred, the printed data must be kept as a record and the incident investigated in accordance with Rule 62-761.430, F.A.C.**

(Makes it clear that owners and operators of electronic line leak detectors are not punished for having a more effective and environmentally friendly method of piping release detection than owners with mechanical line-leak detectors that are not as effective.)

3. Electronic interstitial monitoring devices. Storage tank systems without line leak detectors, shall have electronic interstitial monitoring devices that are capable of detecting a release of ten gallons within one hour and shutting off the pump. Any instance where the monitoring device has shut off the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(4) Annual operability testing of release detection systems. All release detection devices shall be tested annually at intervals not exceeding 12 months to ensure proper operation. The test must either simulate an actual alarm condition or shall be conducted according to manufacturer's specifications, and shall include, at a minimum, a determination of whether the device operates as designed. Remote testing of the system can be performed by the manufacturer if the remote test is included in the third party certification by a Nationally Recognized Testing

Laboratory.

(5) Records shall be kept for ~~three~~**five** years in accordance with Rule 62-761.710, F.A.C.

(Recordkeeping for three years correlates to the Departments inspection frequency and is less of a burden for facility owners)

(j) Any storage tank system not provided with a method, or combination of methods, of release detection in accordance with this section, shall be closed in accordance with subsection 62-761.800(2), F.A.C., by the date upon which release detection is to be provided.

(k) Groundwater and vapor monitoring wells meeting the standards for external monitoring specified in paragraphs 62-761.640(2)(a)-(d), F.A.C., that are no longer used for release detection, shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 2010. Wells not meeting these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are:

1. Used for contamination assessment purposes as specified in paragraph 62-761.600(2)(d), F.A.C.; or
2. Required by rules adopted by a County government in accordance with Section 376.317, F.S.

(2) By December 10, 1990, vehicular fuel petroleum storage tank systems of greater than 550 gallon capacity shall be provided with release detection. Release detection for all other storage tank and integral piping systems in contact with the soil shall be provided by December 31 of the year shown in Table RD.

TABLE RD

Year Storage

Tank System

Installed

Before 1970 or

unknown

1970-1974

1975-1979

1980-1990

Year Release

1990

P/RD

P

P

P

Detection Required

1991

RD

1992

RD

1993

RD

P = Installation of Release Detection for Pressurized Piping

RD = Installation of Release Detection for Tanks and Suction Piping.

(3) Effective December 31 of the applicable year specified under the schedule in Table RD, any groundwater monitoring plan or spill prevention control and countermeasure plan implemented before December 22, 1990, shall be capable of detecting the leak rate or quantity specified in paragraph 62-761.640(1)(a), F.A.C.

(4) UST systems that store fuel solely for use by emergency power generators are not required to comply with the release detection standards of Rules 62-761.600 through 62-761.640, F.A.C.

(5) Monitoring wells shall meet the standards of subsection 62-761.640(2), F.A.C., by December 31, 1998. Wells that do not meet these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are required by a rule that was adopted by a County government in accordance with Section 376.317, F.S. However, if a monitoring well is used solely for the purpose of monitoring petroleum contamination in accordance with Chapter 62-770, F.A.C., the well does not have to be closed until the completion of the site rehabilitation pursuant to Chapter 62-770, F.A.C. Covers of leak detection monitoring wells redesignated as site assessment wells by the facility owner or operator shall be colored black with a white circle within the black background. The diameter of the white circle shall be approximately one half the diameter of the manhole cover, or approximately four inches.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.3072 FS. History—New 12-10-90, Formerly 17-761.600, Amended 7-13-98, 6-21-04, _____.

62-761.610 Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.610, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.640 Performance Standards for Release Detection Methods



Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.640, Amended 9-30-96, 7-13-98, 6-21-04, Repealed.

Substantial rewording of Rule 62-761.700, F.A.C., follows. See Florida Administrative Code for present text.

62-761.700 Repairs, Operation and Maintenance of Storage Tank Systems.

(1) Repairs.

(a) Repairs shall be performed, as necessary, if any component of a storage tank system has:

1. A release or contributed to a release of a regulated substance; or

2. **Other than de minimus levels of condensate, an** operational or structural problem that could potentially result in a release, or lead to the presence of water in the interstice of a double-walled storage tank or integral piping.

(b) The storage tank system shall immediately cease operating, dispensing, and/or accepting deliveries, if:

1. Repairs are required for any component of a storage tank system; and

2. The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shut down of electrical generating units serviced by the storage tank system.

(c) Repairs shall be made:

1. To restore the structural integrity of the storage tank system and in a manner that will prevent releases or discharges from structural failure or corrosion for the remaining operational life of the storage tank system; and

2. In accordance with manufacturer's specifications and applicable reference requirements.

(d) **If repairs are needed for any primary or secondary tank or piping system walls, or any component of the storage tank system with an interstitial space, then the repaired** ~~Repaired~~ components shall be integrity tested for liquid tightness before being placed back into operation.

(This proposed revision in red limits the integrity testing to the primary and secondary spaces for underground storage tanks and will minimize inspector misinterpretation)

(2) Cathodic **and Corrosion** protection.

(a) Cathodic **and Corrosion** protection systems shall be operated and maintained to provide continuous corrosion protection to the metal components of those portions of the storage tank and integral piping in contact with the soil **or within interstitial spaces using vapor corrosion inhibitor technologies**.

(b) Inspection and testing requirements.

1. Storage tank systems equipped with cathodic protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year, or every three years for factory-installed (galvanic) cathodic protection systems, thereafter in accordance with the criteria contained in NACE International Standards SP0169-2007 and SP0285-2011, **or STI R051-06 Cathodic Protection Testing Procedures for sti-P3 UST's (R051)**, as applicable. All cathodic protection systems shall either have permanent test stations for soil-to-structure potential measurements or use temporary field test stations for required testing in accordance with this subparagraph.

(Recommend adding STI R051 as an additional test method for testing sti-P3 tanks. Steel Tank Institute has performed over 100,000 tests on sti-3 tanks. STI was instrumental in revising NACE tank cathodic protection testing procedures for underground storage tanks, especially tanks with galvanic anodes. The STI R051 needs to be referenced.)

2. Storage tank systems with impressed current systems shall be inspected at intervals not exceeding two months. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 1440 hours in one year shall be immediately taken out-of-service and within 30 days, and assessed by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria.

(c) Records of the continuous operation of impressed current systems and all cathodic protection inspection,



testing, and repair activities shall be maintained in accordance with paragraph 62-761.710(3)(c), F.A.C.

(d) Storage tank systems with cathodic protection systems that have been determined by a Corrosion Professional that the cathodic protection system cannot achieve or maintain protection levels in accordance with the design criteria shall:

1. Be repaired within ~~90~~30 days in accordance with subparagraph 62-761.700(2)(b)1., F.A.C., or
2. Be closed in accordance with subsection 62-761.800(2), F.A.C.

(A corrosion professional generally doesn't review test reports. A cp tester alone will test and pass/fail a system. 30 days is not adequate time to have a system repaired. 90 days is more appropriate.)

(3) Vapor Corrosion Inhibitors

(a) Vapor Corrosion Inhibitor systems shall be operated and maintained to provide continuous corrosion protection to the metal surfaces within the interstitial spaces of storage tanks and piping. Vapor Corrosion Inhibitors can also be used for corrosion control for the ullage of USTs or other enclosed spaces.

(b) Inspection and testing requirements.

1. Storage tank systems equipped with VCI protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year thereafter. All VCI protection systems shall have permanent test stations with at least one electrical resistance probe to measure corrosion rates, or a method of monitoring to allow for a determination of VCI effectiveness and to monitor current operating status of the VCI protection system.. If the data from the electrical resistance probes or from an alternate method or source of data evaluated by a Corrosion Professional indicate that the vapor corrosion inhibitors have been depleted and can no longer provide the design capacity to protect the targeted metallic surfaces for the designed time period, the Corrosion Professional shall direct the replenishment or replacement of the depleted vapor corrosion inhibitors with a new quantity of vapor corrosion inhibitors.

2. Systems using vapor corrosion inhibitor technology must be tested in accordance with manufacturers instructions.

(c) Records of the continuous operation of VCI systems and all inspection, testing, and repair activities shall be maintained in accordance with paragraph 62-762.711(3)(b), F.A.C

(d) Storage tank systems with VCI protection systems that have been determined by a Corrosion Professional that the VCI system requires replenishing shall:

1. Be replenished or replaced within 90 days in and be retested within 90 days from the date of replenishment; or
2. Be closed in accordance with subsection 62-762.801(2), F.A.C.

(All proposed revisions in this sub-section are intended to provide the option of using vapor corrosion inhibitor technologies that perform a similar function to cathodic protection by using a different approved technology. For USTs, VCI's can be used in piping sumps, metallic interstitial spaces, and the ullage of metallic double-wall USTs)

(3) Operation and maintenance.

(a) Integrity testing.

1. The integrity of ~~the~~ secondary containment ~~systems~~ and interstitial spaces ~~of small diameter piping installed after the effective date of the rule~~ shall be verified by performing an interstitial or containment integrity test in accordance with manufacturer's specifications or PEI/RP1200-12. ~~The integrity of containment sumps with capacities less than 500 gallons that are installed after the effective date of the rule shall be verified by performing a containment integrity test. Small diameter piping installed after the effective date of the rule~~ Secondary containment systems that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection are exempt from this requirement. The interstitial or containment integrity tests shall be performed by January 1, 2020, and every five years thereafter. The interstitial spaces of double-wall underground tanks and single~~in accordance with the following schedule:~~

~~a. Double-walled storage tanks shall be tested by January 1, 2015, and every five years thereafter;~~



- ~~b. The interstice of double-walled integral piping by January 1, 2015, and every five years thereafter;~~
- ~~c. Below grade piping sumps by January 1, 2015, and every five years thereafter;~~
- ~~d. Below grade dispenser sumps by January 1, 2015, and every five years thereafter;~~
- ~~e. Double-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter;~~
- ~~f. Single-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter; and~~
- ~~g. Single-walled storage tanks or integral piping installed within liners are exempt from this requirement.~~

(This requirement is an example of making a problem out of something that is not a problem. Breach of Integrity testing has limited value on USTs because it often induces leaks and damages storage tank systems. B.O.I. tests create a great additional risk for regulatory-induced discharges. Double-wall underground tanks and piping usually have very small interstitial spaces that are very susceptible to damage from over pressure or vacuum. Additionally, these systems are not designed to have periodic interstitial integrity tests, and the depth or presence of groundwater is not always factored in to the testing parameters by the B.O.I testing company. If an area has a high ground water table, the added weight of the water over the tank could and has caused the failure of the interstitial space if the additional pressure is not accounted for. It is recommended that integrity testing be performed only at the time of installation for small diameter piping and system containment components installed after the effective date of the rule, and that the facility rely on the presence of liquids in the interstice for release detection. This change would enable manufacturers to properly design for the testing of the piping. Given the FDEP Leak Autopsy study data that shows piping as a significant risk and problem for releases, it makes sense to limit B.O.I.'s to piping and not include USTs. There is no cost-benefit to this onerous requirement, and the risk of causing new leaks is not worth the requirement for breach of integrity testing. Also, the Department has no data showing that double-wall USTs are failing (except perhaps for after a B.O.I.)

2. If using hydrostatic testing for the interstitial or containment integrity test, it shall be performed by filling the secondary containment system with water to a marked level four inches above the highest penetration of the side wall of the containment equipment, with the exception of spill containment systems which shall be filled to a level within 1.5 inches of the top of the bucket. The secondary containment system shall be deemed tight if the water level remains stationary for a three hour period.

3. Any integrity test that indicates that the component is not tight shall be reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(b) Water removal.

1. Spill containment systems, interstitial spaces, dispenser sumps, and piping sumps shall be maintained to provide access for examination and water removal. Water in excess of one inch in depth, **or water levels above the lowest side-wall penetration of a below-ground containment sump,** or any regulated substance collected in secondary containment, spill containment systems, or in piping sumps and dispenser sumps shall be removed within 72 hours of discovery and be either reused or properly disposed.

(This addition confirms inspector policy of ignoring any water in a sump that does not adversely affect the ability of the release detection to work.)

2. Petroleum Contact Water. Petroleum contact water from storage tank systems shall be managed in accordance with Chapter 62-740, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 3-12-91, Formerly 17-761.700, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.710 Recordkeeping.

(1) All records shall be dated, maintained in permanent form, and available for inspection by the Department or County. If records are not kept at the facility, they shall be made available at the facility or another agreed upon location upon five working days of the Department's request notice. ~~Site access to the facility shall be provided for~~



compliance inspections conducted at reasonable times.

- (2) Records of the following are required to be kept for ~~three~~**five** two years:

(Three years synchronizes with the three year inspection schedule of the Department and the Energy Act of 2005)

- (a) Measurements and reconciliations of inventory, as applicable;
- (b) Repair, operation, and maintenance records;
- (b)(c) ~~All~~ Release detection results, including electronic test results, regardless of the frequency, and monthly visual inspections performed in accordance with paragraph 62-761.600(1)(e) 62-761.640(2)(e), F.A.C. The presence of a regulated substance's odor, sheen, or free product shall be recorded for each sampling event;
- (c)(d) All test data and results gathered during annual operability tests and integrity tests Release detection response level descriptions; and
- (d)(e) A copy of all test data and results gathered during tightness tests, pressure tests, and breach of integrity tests, and the name and type of the test approved under Rule 62-761.850, F.A.C.;
- (f) ~~Certification of Financial Responsibility on Form 62-761.900(3);~~
- (g) Records of the types of fuels stored per tank,; and
- (h) ~~The repair or replacement of gaskets, valve packings, valves, flanges, and connection/disconnection fittings for bulk product piping if the repair or replacement is performed in response to a discharge or loss of regulated substances.~~

(3) Records of the following, generated after July 13, 1998, shall be maintained until for the life of the storage tank system closure:

- (a) Manufacturer's instructions for operation, maintenance, and testing for release detection equipment Results of internal inspections and non-destructive testing;
- (b) Any performance claims for release detection equipment described in writing by the equipment manufacturer or installer;
- (c) Records of storage tank system installations, replacements, recertifications, and upgrades;
- (c)(d) Records of installation, maintenance, inspections, and testing of cathodic protection systems in accordance with NACE standards;

(d) Records of installation, maintenance, inspections, and testing of vapor corrosion inhibitor protection systems in accordance with Corrosion Professional recommendations;

(Includes requirements needed to demonstrate the effectiveness of the corrosion control provided by the vci technology)

- (d)(e) Record drawings ("as-builts") as specified in paragraph 62-761.500(1)(h), F.A.C. Site suitability determinations in accordance with subsection 62-761.640(2), F.A.C.;
- (e)(f) A copy of all INFs, and the results of all incident investigations as specified in Rule 62-761.430, F.A.C. Vapor monitoring plans and all records kept pursuant to the plan;
- (f)(g) A copy of all DRFs Closure assessment reports if the location continues as a facility; and
- (g)(h) A copy of all Closure Reports, as referenced in paragraph 62-761.210(2)(c), F.A.C., if the location continues as a facility Verification from a Certified Contractor of the existence of a single check valve beneath the suction pump for suction piping systems.

(4) Records to demonstrate financial responsibility shall be maintained until storage tank system closure.

Rulemaking Specific Authority 376.303, 376.322(3) FS. Law Implemented 376.303, 376.322 FS. History--New 12-10-90, Formerly 17-761.710, Amended 9-30-96, 7-13-98, ~~Repromulgated~~ 6-21-04, _____.

62-761.800 Out-of-Service and Closure Requirements.

- (1) Out-of-service storage tank systems.

(a) General.

1. Storage tank systems that are taken out-of-service, as required in this subsection as defined in subsection 62-761.200(40), F.A.C., shall continue to be maintained in accordance with this Chapter unless otherwise noted herein.



2. Facility owners and operators of out-of-service storage tank systems shall:
- Continue to operate and maintain corrosion protection in accordance with subsection paragraph 62-761.700(2)(4)(b), F.A.C.;
 - Perform external release detection for sites without contamination, as applicable, every six months in accordance with provisions of subsection 62-761.640(2), F.A.C.;
 - Leave vent lines open and functioning;
 - Remove all regulated substances so that no more than one inch in depth **or 0.3 percent by weight** of regulated substances remains in the storage tank ~~Empty the system and cap or secure all lines, pumps, manways, and ancillary equipment, as applicable; and~~
 - Secure or close off the system to outside access.

(Current rule is not a problem, and 0.3 is in the current rule)

32. Facility owners and operators of out-of-service storage tank systems shall monitor the interstice and the liquid level in the storage tank annually ~~but not to exceed 12 months~~. Records of these inspections shall be maintained in accordance with subsection 62-761.710(2), F.A.C. In the event that liquid in excess of one inch in the storage tank or any liquid in the interstice is discovered, **facility owners and operators must follow the procedures for suspected incidents** ~~an INF must be submitted in writing or electronic format and an investigation as to the cause performed~~ pursuant to Rule 62-761.430, F.A.C. If the storage tank system is required to be upgraded during the time that it is out of service, it shall be upgraded or replaced in accordance with this chapter before it is returned to service.

(Department's proposed language compels an INF, while the suggested revision requires following procedures for suspected incidents. It's not an incident until after the investigation)

43. Release detection device annual operability testing, containment and **interstitial** integrity testing, and annual overfill protection device testing are not required while the system is properly out-of-service. All aforementioned testing shall be up-to-date in accordance with this Chapter and indicate proper operation before adding regulated substances to the storage tank system. In addition, storage tank systems **installed after the effective date of the rule** that have been out-of-service for more than ~~two years~~ **365 days** shall perform interstitial integrity testing of the storage tank and **small diameter** integral piping before adding regulated substances to the storage tank system. Systems with secondary containment installed and operated in accordance with this chapter may remain in a continuous out of service status for ten years. After this period, the system shall be returned to service or closed in accordance with subsection 62-761.800(2), F.A.C.

(This requirement for interstitial integrity testing should be eliminated for existing systems, but if the tank has been out of service for two years without monthly release detection then a B.O.I. could be performed for tanks and piping installed after the effective date of the rule that have been properly designed to have safe interstitial integrity testing.)

54. Storage tank systems with secondary containment shall only be designated as out-of-service for a maximum of ten continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with subsection 62-761.800(2), F.A.C. Tightness, pressure, or other tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., as applicable, on any systems being returned to service.

(b) Before being returned to service, the following tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., for systems that are taken out of service for more than 180 days:

- A tightness test for single-walled systems; or
- A breach of integrity test for double-walled Category C systems.

(c) Single-walled systems that are taken out of service shall not be kept out of service longer than two years for corrosion-protected systems or one year for unprotected bare steel systems. After the end of these time periods, the systems shall either be upgraded or permanently closed.

(2) Closure of storage tank systems.

(a) The following storage tank systems must be closed within 90 days in accordance with the provisions of this subsection: General:



1. A storage tank system that is out-of-service or has not had regulated substances added to or withdrawn from the system for more than ~~Closure of storage tank systems shall be performed by:~~

- a. Two years for single-walled storage tank systems; or ~~Removing all liquids and accumulated sludges;~~
- b. Ten years for storage tank systems with secondary containment. ~~Disconnecting and capping, or removing, all integral piping. Manways shall be secured to prevent access;~~
- c. ~~Closing the storage tank system in accordance with paragraphs 62-761.800(2)(b), F.A.C., as applicable; and~~
- d. ~~Conducting a closure assessment in accordance with subsection 62-761.800(3), F.A.C.~~

2. ~~A storage tank system that fails to meet the requirements of Rule 62-761.500, F.A.C. After closure, storage tank systems may be used to store materials or substances other than regulated substances in accordance with all applicable Department reference standards, (for example, API 1604). Owners and operators are advised that other federal, state, or local requirements may apply to these activities.~~

3. A storage tank system that requires repair pursuant to Rule 62-761.700, F.A.C., but cannot be repaired to operate in accordance with the requirements of this Chapter. Monitoring wells associated with closed systems that are not being used for release detection or site assessment purposes shall be closed in accordance with paragraph 62-761.600(1)(k), F.A.C.

(b) Closure of storage tank systems shall be performed by: ~~Unmaintained systems shall be permanently closed within 90 days of discovery.~~

(c) ~~System removal, closure in place, and disposal shall be performed:~~

1. Properly closing monitoring wells associated with closed systems that are not being used for site assessment purposes; In accordance with API RP 1604 and NFPA 30; and

2. Removing or disconnecting and capping all integral piping; By a Certified Contractor if the system is removed from the ground, unless it is closed in place by filling it with a solid inert material of sufficient density to prevent a structural collapse of the closed system.

3. Removing and disposing of a storage tank by a Certified Contractor, or in-place closure by filling the storage tank with a solid inert material of sufficient density to prevent a structural collapse of the closed storage tank, which shall be in accordance with the following documents hereby adopted and incorporated by reference, and available from the addresses given. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, and Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C). In lieu of in-place closure or removal, a storage tank may be used to store liquids other than regulated substances in accordance with API RP 1604. Owners and operators are advised that other federal, state, or local requirements apply that regulate these activities; and

4. Conducting a Closure Evaluation and preparing a Closure Report, as referenced in paragraph 62-761.210(2)(c), F.A.C., in accordance with subsection 62-761.800(3), F.A.C.

(c) The removal and disposal of all liquids and accumulated sludges may be required according to other local, state, and federal requirements.

(3) Closure Report and Evaluation Requirements, as referenced in paragraph 62-761.210(2)(c), F.A.C. Closure assessment of storage tank systems.

(a) Closure Report ~~At time of closure, replacement, installation of secondary containment, or change in service from a regulated substance to a non-regulated substance, an assessment shall be performed to determine if a discharge from the system or system components has occurred.~~

1. A Closure Report is always required and shall be completed in accordance with the Department's "Storage Tank System Closure Guidelines - Closure Evaluation Guidance," specified in paragraph 62-761.210(2)(c), F.A.C., at the time of closure, replacement, installation of secondary containment, repairs performed because of an operational or structural problem that could potentially result in a release, or change in service from a regulated substance to a non-regulated substance for tanks, integral piping, and other system components in contact with the soil. If a Site Rehabilitation Completion Order (SRCO) or a Monitoring Only Plan (MOP) Approval Order has been issued by the Department for a contaminated area of a site, a closure assessment shall be performed for any subsequent storage tank system removal, replacement, or installation of secondary containment.

2. A Closure Report (including a Closure Evaluation, as required), shall be submitted in writing or electronic format to the County within 60 days of completion of any of the activities listed in subparagraph 62-761.800(3)(a)1., F.A.C. Tanks, pipes, or other system components in contact with soil at any site are subject to closure assessment requirements.

(b) Closure Evaluation. In addition to a Closure Report, all storage tank systems in contact with the soil must perform a Closure Evaluation according to the Department's "Storage Tank System Closure Guidelines - Closure



Evaluation Guidance” specified in paragraph 62-761.210(2)(c), F.A.C. A closure assessment is not required for:

1. Sites with documented contamination requiring a site assessment in accordance with Chapter 62-770, F.A.C., including those that are eligible for the Early Detection Incentive Program (EDI), the Florida Petroleum Liability and Restoration Insurance Program (FPLRIP), and the Petroleum Cleanup Participation Program (PCPP), pursuant to Sections 376.3071 and 376.3072, F.S. Nevertheless, documentation of procedures followed and results obtained during closure shall be reported in a Limited Closure Summary Report, Form 62-761.900(8), and in accordance with Section A of DEP’s “Storage Tank System Closure Assessment Requirements”;

2. Systems initially installed with secondary containment, provided that no unexplained positive response of an interstitial release detection device or method occurred during the operational life of the system, or the secondary containment passed a breach of integrity test prior to closure; and

3. Systems upgraded with secondary containment that have closed interstitial spaces, where a closure assessment was performed prior to installation of secondary containment, provided that the secondary containment passed a breach of integrity test in accordance with paragraph 62-761.640(3)(a), F.A.C.;

(c) Closure assessment sampling and analysis shall be conducted according to DEP’s “Storage Tank System Closure Assessment Requirements.”

(d) A closure assessment report shall be submitted to the County within 60 days of completion of any of the activities listed in paragraph 62-761.800(3)(a), F.A.C. The report shall include sample types, sample locations and measurement methods, a site map, methods of maintaining quality assurance and quality control, and any analytical results obtained during the assessment in accordance with DEP’s “Storage Tank System Closure Assessment Requirements.”

(e) Persons are advised that contaminated soil excavated, disposed of, or stockpiled on site during the closure of a storage tank system is regulated by Chapter 62-770, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.30716 FS. History–New 12-10-90, Formerly 17-761.800, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.820 Incident and Discharge Response.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.820, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.850 Alternative Procedures Requirements and Equipment Registration Approvals.

(1) Alternative procedure requirements.

(a) Any person subject to the provisions of this Chapter may request in writing a determination by the Secretary or the Secretary’s designee that any requirement of this Chapter shall not apply to a regulated storage tank system at a facility, and shall request approval of alternative ~~alternate~~ procedures or requirements.

(b) On Form 62-761.900(4), Alternative Requirement or Procedure Form, effective date, *(the effective date of the rule)*, hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

The request shall set forth at a minimum the following information:

1. The specific storage tank system or facility for which an exception is sought;
2. The specific provisions of this Chapter 62-761, F.A.C., from which an exception is sought;
3. The basis for the exception;
4. The alternative procedure or requirement for which approval is sought;
5. Documentation that demonstrates that the alternative procedure or requirement provides an equivalent or greater degree of protection for the lands, surface waters or groundwaters of the State as the specific provisions of this Chapter from which an alternative procedure is sought ~~established requirement~~; and
6. Documentation that demonstrates that the alternative procedure or requirement is at least as effective as the established procedure or requirement.
7. If an alternative ~~alternate~~ procedure or requirement is not able to be sought under subparagraph 5. or 6., then documentation that demonstrates that the specific provisions of this Chapter from which the exception is sought imposes regulatory costs on the regulated entity that could be reduced through approval of a less costly regulatory alternative or requirement that provides a substantially equivalent degree of protection for the lands, surface waters,



or groundwaters of the State as the established requirement.

(c) The Department shall issue an Order either: Within 60 days of the receipt of a request for approval of an alternative procedure or requirement, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(1), F.A.C., are met.

1. Approving the request with any conditions necessary to meet the requirements of paragraph 62-761.850(1)(b), F.A.C.; or

2. Denying the request and stating the reason(s) the request does not make an adequate demonstration that the requirements of paragraph 62-761.850(1)(b), F.A.C., have been met.

(d) ~~The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S. The Secretary or the Secretary's designee shall specify by order each alternative procedure or requirement approved for an individual storage tank system or facility in accordance with this rule or shall issue an order denying the request for such approval.~~

(e) The provisions of this Rule do not preclude the use of any other applicable relief provisions.

(2) Registration of storage tank system equipment and release detection systems and methods ~~Equipment~~ approvals.

(a) Owners and operators shall verify at the time of installation that the storage tank system equipment and release detection systems and methods (including equipment and methods that were previously approved by the Department under the former Equipment Approval process) have been registered with the Department. Storage tank system equipment used in the State of Florida must have the approval of the Department before installation or use, with the exception of:

(b) Any storage tank system equipment installed after *(the effective date of the rule)* must be registered with the Department in accordance with this section. Upon discovery, non-registered storage system equipment installed after *(the effective date of the rule)* must be removed within 90 days, unless registration is obtained and listed within the 90 day time period.

(c) Equipment previously approved by the Department under the former Equipment Approval process and installed prior to *(the effective date of the rule)* can continue to be used regardless of later non-renewal or removal of registration from the list of registered storage tank system equipment, provided the equipment is still operating as designed.

(d) Only the storage tank system equipment as stated in this Chapter shall be registered by the equipment manufacturer using Form 62-761.900(3) Storage Tank System Equipment Registration Form, effective date, *(the effective date of the rule)*, hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>. The following storage tank system equipment is exempt from registration:

1. Dispensers, dispenser islands, nozzles, and hoses;
2. ~~Monitoring well bailers;~~
3. Manhole and fillbox covers;
34. Valves and ball float valves;
45. Cathodic protection test stations;
6. ~~Metallic bulk product piping;~~
57. Small diameter integral piping not in contact with soil, unless the integral piping extends over or into surface waters; and
68. Vent lines.

7. Gauges used for vacuum and pressure monitoring

(e)(b) Registration ~~Equipment approval~~ requests shall be submitted to the Department in writing or electronic format with a demonstration that the equipment will ~~provide equivalent protection or~~ meet the appropriate performance ~~requirements standards~~ contained in this Chapter. Any approvals or denials received from other states **or countries** shall be included in the registration approval request to the Department.

(f)(e) A third-party demonstration by a Nationally Recognized Testing Laboratory shall be submitted in writing or electronic format to the Department with the application. The third-party demonstration shall provide:

1. A technical evaluation of the equipment;
2. Test results that verify that the equipment will function as designed; ~~and~~
3. A professional certification or determination that the equipment meets the performance



requirements standards contained in this Chapter; Rule 62-761.500, F.A.C.

4. Integrity test requirements and procedures; and

5. Annual operability testing procedure for the equipment or release detection system or method.

(g)(d) Release detection methods and tank and piping tightness and pressure testing methods must be registered in accordance with this subsection and be listed with the National Work Group On Leak Detection Evaluations, <http://www.nwglde.org/>, prior to being used. Within 60 days of the receipt of a request for an equipment approval, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(2), F.A.C., are met.

(h)(e) The storage tank system equipment and release detection systems and methods registered with the Department under this subsection must be renewed every five years. Failure to renew will result in removal from the equipment registration list. Any changes, improvements, or modifications to equipment beyond the scope of the original demonstration by the Nationally Recognized Testing Laboratory will require a renewal of the registration and a new demonstration from a Nationally Recognized Testing Laboratory pursuant to paragraph 62-761.850(2)(f), F.A.C. The Secretary or the Secretary's designee shall specify by order each equipment approval that is approved in accordance with this rule or shall issue an order denying the request for such approval. The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S.

(i) The Department shall place conditions upon the use of the storage tank system equipment and release detection systems and methods, remove equipment or methods from the list of registered storage tank system equipment, or not renew registration based on the information submitted to the Department in accordance with this subsection or if the equipment does not perform in field application as certified in the third party certification by a Nationally Recognized Testing Laboratory.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.850, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.900 Storage Tank Forms.

The forms used by the Department in the Storage Tank System Program are adopted and incorporated by reference in this section. The forms are listed by form rule number, ~~which is also the form number, and with the subject title,~~ and effective date. Copies of forms are available ~~may be obtained~~ by writing to the ~~Administrator, Storage Tank Regulation Section,~~ Florida Department of Environmental Protection, Division of Waste Management, 2600 Blair Stone Road, M.S. 4500 ~~4525,~~ Tallahassee, Florida 32399-2400, or at or online at: www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(1) Form 62-761.900(1) Discharge Report Form, (the effective date of the rule) July 13, 1998.

(2) Form 62-761.900(2) Storage Tank Facility Registration Form, (the effective date of the rule) July 13, 1998.

(3) Form 62-761.900(3) Storage Tank System Equipment Registration Form, (the effective date of the rule)

Certification of Financial Responsibility, July 13, 1998.

(4) Form 62-761.900(4) Alternative Requirement or Procedure Form, (the effective date of the rule) July 13, 1998.

(5) Form 62-761.900(5) Underground Storage Tank Installation and Removal Form for Certified Contractors, (the effective date of the rule) July 13, 1998.

(6) Form 62-761.900(6) Incident Notification Form, (the effective date of the rule) July 13, 1998.

(7) ~~Monthly Statistical Inventory Reconciliation (SIR) Report, July 13, 1998.~~

(8) ~~Limited Closure Summary Report Form, July 13, 1998.~~

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.900, Amended 9-30-96, 7-13-98, Repromulgated 6-21-04, _____.



7-Eleven, Inc.

July 10, 2014

Mr. William E Burns, Jr
Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: 7-Eleven Comments for Chapter 62-761 DRAFT dated 6/17/14

Dear Mr. Burns:

On behalf of 7-Eleven, Incorporated I would like to submit the attached comments for the revised DRAFT Chapter 62-761.430 Incidents and Chapter 62-761.700 Repairs, Operation and Maintenance.

Thank you for considering my last comments in your new published Draft.

Please contact me if you have any questions.

Respectfully,

A handwritten signature in blue ink that reads 'Cathy Wise'.

Cathy Wise
Region Environmental Compliance Manager
7-Eleven Fuels Services, Inc.
Environmental Compliance Dept #0148
P.O. Box 711
Dallas, TX 75221

Attachment 1

Chapter 62-761.430 (4) However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system shall be placed out-of-service until such time the investigation is completed and resolved.

I suggest the 45 days be changed to 90 days. Dispenser/STP/Fill sumps and entry boots can be very expensive and much planning is required for their repair/replacement. Replacement of all the entry boots takes 5 days for a site with 6 or more dispensers to complete. Diversified boots need to be specially ordered for each site and the parts can take another week or more to arrive.

Chapter 62-761.700(3)(a)1.e.

Double-walled spill containment systems within five years of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter:

f. Single-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 month thereafter; and

7-Eleven's Comment: First I would like to state that I agree with Marshal Mott-Smith, that both double-walled and single-walled containment systems should have the same testing requirements.

Reason for the Comment: My reasons are the same as Marshall's and I do not believe I need to restate them but would like to ask for clarification/interpretation of the drafted rule for testing double-walled spill containment systems.

The double-walled spill containment systems like the OPW Edge and the Emco Wheaton A1004 can easily be vac tested. Annual testing for those containment devices should be no problem for 7-Eleven, Inc. On the other hand annual testing for the double-walled spill containment systems to include Fibrelites (EQ#776) and OPW Multi-ports (EQ #558) will be expensive and onerous. They are composed of a single-walled spill bucket contained in a sump that holds up to 300 gallons. The approved test method for the fill sump is hydrostatic. Per the drafted regulation, are you mandating the large fill sumps to be annually tested? They are part of the double-walled spill containment system.

Your proposed draft does not single out the testing requirement for these fill sumps like the piping and dispenser sumps. My suggestion is that you add another line under .700(3)(a)1.d. for the fill sumps that states, **"Below grade fill sumps within five years of (the effective date of the rule) and every five years thereafter;** I believe your intention is for the fill sumps be tested on the same schedule as the STP and dispenser sumps. This added line would clarify it in the rule. If I'm not mistaken, proposed 40 CFR has the testing schedule for all tank sumps grouped together.



July 3, 2014
DELIVERY BY ELECTRONIC MAIL

Mr. William. Burns, Jr.
Bill.Burns@dep.state.fl.us
Bureau Chief
Bureau of Petroleum Storage Systems
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Re: Chapter 62-761 Rulemaking
June 18, 2014 Workshop Draft

Dear Bill:

We are pleased to represent the Florida Petroleum Marketers and Convenience Stores Association, Inc. ("FPMA"). These comments are intended to supplement the comments we provided at the June 18, 2014 Rulemaking Workshop held in Tallahassee, Florida.

62-761.200 Definitions.

(9) "Closure Report Form" – Although the Closure Report Form has not yet been made available, we understand that the Closure Integrity Evaluation will largely suffice as the Closure Report Form. We would encourage the Department to minimize the time and expense associated with the Closure Report Form in such cases.

(14) "Discovery" – On page 2, line 53, before the word "incident" insert: unreported.

(34) "On-site" – On page 5, line 12, strike the words "and which may" and insert: even though the properties.

CATHERINE B. CHAPMAN[○]
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A MEMBER OF
 THE HARMONIE GROUP[®]

Mr. William. Burns, Jr.
July 3, 2014
Page 2

(49) “Residential storage tank system” – On page 6, line 49, add: The term also includes on-site storage tank systems servicing uses that are ancillary to the residential character of the property and the property is not regulated pursuant to Chapters 718 through 723, Florida Statutes.

(57) “Vapor Corrosion Inhibitor” (VCI) – Are there non-metallic components that a VCI might protect from the effects of damaging agents? If so, what type of professional should be involved in the application?

62-761.300 Applicability.

(2) Exemptions.
* * *

(w) – We recommend retaining the exemption for loading racks.

62-761.400 Registration

We understand that this rulemaking does not include rules relating to revocation of registration placards (subsection (6)) and delivery prohibitions (subsection (7)). We are concerned, however, that subsection (5) describes the posting of a “current” registration placard. “Current” should mean a facially-valid placard. If the placard has been revoked, the revocation should not be effective as to the supplier until the supplier receives actual notice.

62-761.420 Financial Responsibility

On page 12, line 49, financial responsibility requirements are stated to apply to the owner or operator of a facility or of individual tanks. Under 40 CFR 280.90(a), the owner and operator of the UST system is subject to financial responsibility requirements. Under 40 CFR 280.90(e), if the owner and operator are separate, only one need comply, though both are liable for non-compliance. It may be that providers have determined that facility owners or operators have an insurable interest and may obtain coverage. However, they are not required to do so. Therefore, we suggest as follows:

On page 12, line 49, strike “a facility, or individual tanks, if of different ownership” and insert: storage tanks, and the facility owner or operator may demonstrate,.

We note that the remaining two sentences in this section correctly state the requirements of 40 CFR 280.90(e).

On page 13, line 6, we recommend a new subsection (5) as follows:

(5) Financial responsibility mechanisms may not include choice of law and venue providing favoring jurisdictions other than Florida.

We note that the only financial responsibility mechanism subject to review by the Florida Office of Insurance Regulation (“OIR”) are policies issued by admitted (i.e., non-surplus lines) insurance companies. However, the OIR takes the position that a policy form filed by an authorized insurer need only state that it is in compliance with “applicable Florida laws and rules” (see section 627.4102, Florida Statutes), and the requirements of section 627.410, Florida Statutes. Nonetheless, the OIR has both rejected and approved non-Florida choice of law and venue provisions. (See Deposition of Richard Koon, attached.) Given the state’s interest in having financial responsibility available to responsible parties and the Department’s own direct interest in enforcing financial responsibility under section 376.309, Florida Statutes, the Department has an overriding interest in the conduct of coverage litigation under Florida law and in Florida courts.

62-761.430 Incidents

On page 14, line 3, after “discharge” add: including documentation showing that contamination is the manifestation of a previously reported discharge.”

Subsection (f)

Rule 62.761.405(3) requires notification of the discovery of an incident. Rule 62-761.430(1) and 62-761.200(24) define “incident.” The requirement in subsection (8) requiring documentation of incidents that need not be reported is confusing, at best. Perhaps the Department means:

All investigations of incidents, regardless of whether a release or discharge is found to have occurred, shall be submitted

62-761.440 Discharges

On page 14, line 34, before “appropriate county” add: the Department or.

On page 14, lines 53-54, if the system is drained, the three-day testing requirement is too stringent, particularly if the system is placed out-of-service.

62-761.710 Recordkeeping

We suggest a new subsection (3) be added:

(3) The Department strongly encourages that all records relating to financial responsibility be maintained permanently.

61-761.800 Out-of-Service and Closure Reports

On page 26, lines 24-25, the two-year and ten-year out-of-service limits should be deleted and the rule conformed to 40 CFR 280.70 for any corrosion-resistant system.

62-761.850 Alternate Procedures and Equipment Registration

(2) Registration of storage tank system equipment and release detection systems and methodss.

If it unclear how a registration may be revoked or not approved. The language in subsection (i) describes “information submitted to the Department in accordance with this subsection.” However, the subsection describes information supporting the request for registration as opposed to information that the Department may obtain from its inspectors, owners, operators, and others showing that equipment is not properly performing. At a minimum, the language “in accordance with this subsection” on page 29, lines 51-52 should be deleted.

Incident and Discharge Reporting

We would encourage the Department to provide a central repository for incident and discharge report forms, at a minimum. Even if the Department does not have the resources to “mine” the data, merely being able to track the number of discharges and incidents would be extremely valuable.

Mr. William. Burns, Jr.
July 3, 2014
Page 5

We appreciate the opportunity to provide these comments and again wish to commend the Department staff for its efforts in this rulemaking. If you have any questions regarding our comments, please contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. D. Fingar", is positioned above the printed name.

Robert D. Fingar

RDF/cg
Attachment

cc: Mr. Ned Bowman, FPMA (via email w/o attachment)
Mr. Randy Miller, FRF (via email w/o attachment)

IN THE CIRCUIT COURT OF THE
THIRD JUDICIAL CIRCUIT IN
AND FOR SUWANNEE COUNTY, FLORIDA.

CO-FREE, INC.,

CASE NO. 12-111-CA

Plaintiff,

vs.

ILLINOIS UNION
INSURANCE COMPANY,

Defendant.

_____ /

THE DEPOSITION OF:

RICHARD KOON

TAKEN AT INSTANCE OF:

The Plaintiff

DATE:

Tuesday, July 10, 2012

TIME:

Commenced: 9:30 a.m.

Concluded: 11:05 a.m.

LOCATION:

Office of Insurance Regulation
200 East Gaines Street
Tallahassee, Florida

REPORTED BY:

LIZ CLEARY, RPR
Notary Public in and for
State of Florida at Large

APPEARANCES:

Representing the Plaintiff:

ROBERT D. FINGAR, ESQUIRE
1983 Centre Pointe Boulevard, Suite 200
Tallahassee, Florida 32308-7823

Representing the Defendant:

LAUREN S. CURTIS, ESQUIRE
360 Central Avenue, Suite 1000
St. Petersburg, Florida 33701

Representing the Office of Insurance Regulation:

C. TIMOTHY GRAY, ESQUIRE
SHANNON DOHENY, ESQUIRE
200 East Gaines Street, Suite 647B
Tallahassee, Florida 32303

ALSO PRESENT:

BARBARA BERRY

* * * * *

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* * * * *

DEPOSITION

Whereupon,

RICHARD KOON

was called to be deposed and, after being first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. FINGAR:

Q Would you state your name and business address, please?

A Richard Koon, 200 East Gaines Street.

Q Mr. Koon, by whom are you employed?

A Florida Office of Insurance Regulation.

Q And what is your job title?

A Deputy commissioner for property and casualty insurance.

Q And are you appearing here --

MR. FINGAR: Let's mark this as Plaintiff's 1.

(EXHIBIT 1 MARKED FOR IDENTIFICATION.)

Q Are you appearing here today in response to this notice of taking subpoena duces tecum for a deposition?

A Yes.

Q And you are the designated representative of the Florida Office of Insurance Regulation; is that correct?

A Yes.

Q And who decided that you ought to be the person

Depo of RICHARD KOON, 7/10/12

1 testifying on behalf of the Office of Insurance Regulation for
2 the matters that are set forth in Exhibit A to the subpoena duces
3 tecum?

4 A I did.

5 Q How long have you been the deputy commissioner, is it
6 for property and casualty?

7 A Yes. Approximately ten months.

8 Q And prior to that, where were you employed?

9 A Director of property and casualty product review.

10 Q And so is the deputy commissioner position a promotion
11 from your previous position?

12 A Yes.

13 Q And how long were you the director of property and
14 casualty review?

15 A About five years.

16 Q Prior to that, how were you employed?

17 A Forms manager for property and casualty products.

18 Q I'm sorry?

19 A Forms manager for property and casualty products.

20 Q What does the forms manager do? What are the job
21 responsibilities in that position?

22 A Supervise the review of form products.

23 Q And how long were you in that position?

24 A Five or six years.

25 Q So in approximately 2000 or so, or 1999 or so, you

Depo of RICHARD KOON, 7/10/12

1 would have started in that position?

2 A I think it was about 2000.

3 Q Prior to being the forms manager, how were you
4 employed?

5 A I was a workers' compensation analyst.

6 Q For the Department of Insurance?

7 A Yes.

8 Q And prior to that?

9 A Prior to that, I was an insurance analyst for property
10 and casualty.

11 Q And prior to that?

12 A I think we're into -- I have no idea. Before that,
13 you're 25 years back. I was outside of the insurance back then.

14 Q So you have been with either the Department of
15 Insurance or Office of Insurance Regulation for some 25 years?

16 A Twenty-five years, yes.

17 Q What are your job responsibilities currently as deputy
18 commissioner?

19 A Essentially oversight of the two property and casualty
20 units, financial oversight unit and product review unit.

21 Q Would that product review unit be the office
22 responsible for reviewing and approving policy forms?

23 A Yes.

24 Q Who do you report to directly as deputy commissioner?

25 A The commissioner himself.

Depo of RICHARD KOON, 7/10/12

1 Q And who is that?

2 A Mr. McCarty, Kevin McCarty.

3 Q What, if anything, did you do to prepare for your
4 deposition today?

5 A Scanned through the filings that were listed in the
6 document.

7 Q And were you able to locate -- if you turn to
8 Exhibit A, were you able to locate the first nine documents,
9 which are policy forms?

10 A Yeah. They are tabbed 1 through 12, so I'm assuming
11 they are all here.

12 Q Let's look at the first form, which should be Commerce
13 and Industry 1993, C-29.

14 MR. FINGAR: Let's mark that as 2, please.

15 *(EXHIBIT 2 MARKED FOR IDENTIFICATION.)*

16 Q Mr. Koon, I'm going to hand you what I have marked as
17 Exhibit 2. And what I want to make sure of is that I have the
18 same document that you have produced today as Commerce Form
19 Filing C-29.

20 MR. GRAY: Do you want us to compare what he looked at
21 in preparation page by page?

22 MR. FINGAR: I'm going to ask him questions about it
23 and I want to make sure that what he's produced is the same
24 document that I obtained earlier from the Office.

25 Tim, we did a public records request some time ago and

Depo of RICHARD KOON, 7/10/12

1 obtained those documents. I just want somebody to say that
2 we've got what you've got.

3 MS. DOHENY: Yes, I prepared the exhibits and these
4 are the documents that you requested in the subpoena.

5 MR. FINGAR: Thank you.

6 BY MR. FINGAR:

7 Q Mr. Koon, the fourth page of the document is entitled,
8 "Florida Department of Insurance, property and casualty lines,
9 excluding workers' compensation rate, rule, or form filings,
10 checklist." Can you explain to me what this document is and how
11 it's used?

12 A It was a checklist used to review form filings at that
13 time.

14 Q Is this the only document that's used by the
15 Department or the Office of Insurance Regulation, or was used at
16 that time, to determine whether or not a form filing ought to be
17 approved?

18 A To my knowledge, yes.

19 Q If you look at the first page of the document, which
20 is a June 14, 1993 letter -- I'm sorry, I'm back at the top. If
21 you look at that first page, which is a June 14, 1993 letter from
22 Commerce and Industry to Tom Gallagher, in the last paragraph you
23 will see that it says that the policy has been developed to
24 comply with federal insurance requirements for storage tanks. Do
25 you see that?

Depo of RICHARD KOON, 7/10/12

1 A Yes.

2 Q How would the Department have reviewed a form filing
3 for a storage tank policy to determine whether or not it, in
4 fact, complied with the federal insurance requirements?

5 MR. GRAY: Form.

6 A They wouldn't have. They would have reviewed the
7 filing to see if it complied with the Florida insurance code.

8 Q To your knowledge, does anyone look at the policy to
9 see whether or not it complies with federal financial
10 responsibility requirements?

11 A I'm not aware of who looks at the policies for federal
12 compliance.

13 Q If you look at the policy itself, which is about ten
14 pages in, you see the Florida storage tank third-party liability
15 and corrective action policy?

16 A Yes.

17 Q If you will go to Section 10 of the policy, which is
18 on Page 11 of the policy, and let me direct your attention to
19 Section 9 of the policy, choice of law and forum.

20 A Okay.

21 Q And this policy provides for a forum in New York and a
22 choice of law in New York; is that correct?

23 A Yes.

24 Q Was this policy approved by the Department of
25 Insurance?

Depo of RICHARD KOON, 7/10/12

1 A It's stamped approved on its face.

2 Q Let's go to the next document, which is Number 2 on
3 the list, which is the Commerce and Industry Form Filing 94-9238.

4 MR. FINGAR: Let's mark that as 3, please.

5 *(EXHIBIT 3 MARKED FOR IDENTIFICATION.)*

6 Q If you look at Page 12 of the filing -- I'm sorry,
7 Page 12 of the policy.

8 A Okay.

9 Q This policy provides for choice of law and forum in
10 New York as well; is that correct?

11 A Yes.

12 Q If you look at the first page of the policy, this
13 policy was -- this form was submitted to add aboveground storage
14 tanks to the policy which previously covered underground storage
15 tanks; is that correct?

16 A Yes.

17 Q And this policy form was approved by the Department of
18 Insurance; is that correct?

19 A It's stamped approved on its face.

20 Q When a carrier wishes to change language in an
21 approved form must it submit the new form to the Department of
22 Insurance, or now the Office of Insurance Regulation, in order to
23 get approval?

24 A Yes.

25 Q Could an insurance company and an insured negotiate

1 different policy terms, policy terms that are different than the
2 approved form, without the carrier having to get that form
3 approved by the Office of Insurance Regulation?

4 MR. GRAY: Form.

5 A It depends.

6 MR. FINGAR: I'm sorry, Tim.

7 MR. GRAY: Form.

8 MR. FINGAR: Form?

9 MR. GRAY: Yeah.

10 MR. FINGAR: What did I say?

11 MR. GRAY: Legal conclusion.

12 MR. FINGAR: Oh, okay, you objected.

13 MR. GRAY: Right.

14 BY MR. FINGAR:

15 Q Tell me what it depends on.

16 A Well, there are some statutes that deal with unique
17 forms. And if you look at 627.410 where it talks about unique,
18 those forms don't have to be filed. So depending on the type of
19 risk, there are provisions in the law that allow companies to use
20 files that aren't made with us, forms that aren't made with us.

21 Q These storage tank policies have to be filed with the
22 Office of Insurance Regulation for approval?

23 A It depends.

24 Q What would it depend on?

25 A It would depend on what kind of risk it is, how big

Depo of RICHARD KOON, 7/10/12

1 the risk is, whether or not it meets the individual risk rating
2 requirements, and whether or not it meets the requirement of a
3 unique form for that program.

4 Q These storage tank policies that we're talking about
5 that have -- and I will represent to you that they have
6 \$1 million or \$2 million in coverage, these forms we're talking
7 about have obviously been submitted to either the Department of
8 Insurance or the Office of Insurance Regulation for review,
9 correct?

10 MS. CURTIS: Objection to form.

11 A These forms were filed for review, yes.

12 Q Did they have to be filed for review?

13 A They chose to file them for review.

14 Q Were they legally required to file them for review?

15 MS. CURTIS: Objection to form.

16 A If they are using it outside the scope of the statutes
17 that say you don't have to, then, yes, they would.

18 Q And, to your knowledge, is 627.410 the statute I would
19 look at to make that determination?

20 A Yes, one of them.

21 Q Are there others?

22 A If you are going to get into what kind of risk has to
23 have full regulation of form and rates, you do have to look at
24 other statutes.

25 Q Do you recall those statutes?

1 A 627.062 references some of the individual risk rating
2 type things. When you start talking about individual risk rating
3 accounts, you often get into the unique form issues that you
4 would find in 410.

5 Q Any others come to mind?

6 A There are some administrative rules on this subject,
7 but I don't recall those numbers.

8 Q Let's go to the third form, which is a Zurich policy
9 Form Filing 99-2938.

10 MR. FINGAR: Let's mark that as 4, please.

11 *(EXHIBIT 4 MARKED FOR IDENTIFICATION.)*

12 Q If you look at Page 8 of 9 of the policy.

13 A Okay.

14 Q Provision F, choice of law, do you see that?

15 A Yes.

16 Q This provides that the law of the State of New York
17 shall apply to an interpretation of the policy. Do you see that?

18 A Yes.

19 Q And was this policy approved in 1999 by the Department
20 of Insurance?

21 A There is an approval stamp on the front of one of the
22 documents.

23 Q And if you look at the Zurich transmittal letter,
24 which is about five pages in, dated March 30, 1999, this is a
25 revision to an existing approved form, correct?

1 A Yes.

2 MR. FINGAR: Let's mark this as 5, please.

3 *(EXHIBIT 5 MARKED FOR IDENTIFICATION.)*

4 Q Mr. Koon, what I have marked as Exhibit 5, is that the
5 Zurich Form Filing 99-5618 that you have produced today?

6 A Yes.

7 Q And if you look at the Zurich transmission letter,
8 which is about four pages in, dated May 7, 1999.

9 A Yes.

10 Q This form filing was intended to change certain
11 definitions in a previously approved Zurich form filing; is that
12 correct?

13 A Yes.

14 Q And if you look at the terms of the policy, and I'm
15 two pages from the back, I will refer you to the choice of law
16 provision in Condition F.

17 A Yes.

18 Q And under the choice of law provision it states that
19 the law of the State of New York shall apply to a dispute
20 regarding the meaning, interpretation, or operation of the
21 policy; is that correct?

22 A Yes.

23 Q And I'm sorry if I've asked this question, but was
24 this form approved by the Department of Insurance?

25 A It has stamped approved on its face.

1 MR. FINGAR: Let's mark this as 6.

2 *(EXHIBIT 6 MARKED FOR IDENTIFICATION.)*

3 Q Let me show you Plaintiff's Exhibit Number 6, which is
4 Zurich Form Filing 99-10944, and about nine pages in is the
5 transmittal letter dated September 23, 1999, from Zurich to the
6 Department. Do you see that?

7 A Yes.

8 Q And these were filed for the purpose of revising the
9 previously approved Zurich forms; is that correct?

10 A Yes.

11 Q And if you look at Page 8 of 9 of the policy, you will
12 see Provision F, choice of law, and this provision also contains
13 a choice of law provision in favor of the State of New York; is
14 that correct?

15 A Yes.

16 Q Was this policy form approved?

17 A Yes.

18 Q Let me ask you to look about nine pages in. There is
19 a letter from the Department dated September 29, 1999, and I will
20 ask you to take a look at that letter.

21 A Okay.

22 Q Let me ask my last question again. Was this policy
23 form approved by the Department?

24 A The approval stamp says it's approved September 30th.
25 The September 29th letter says the filing is considered

1 disapproved.

2 Q Why was it disapproved?

3 A The letter states violations of 627.411.

4 Q With respect to the choice of law provision?

5 A Yes.

6 Q And the letter requires Zurich to have a Florida
7 choice of law provision; is that correct?

8 A That's what the letter says, yes.

9 Q I want to ask you to turn to the third page in the
10 document and this may resolve the issue of the dates. There is a
11 letter dated September 30, 1999, from Zurich to the Department of
12 Insurance transmitting revisions to the policy form. Do you see
13 that?

14 A Yes.

15 Q Did Zurich, in fact, delete the New York choice of law
16 provision?

17 A The letter states they revised that provision.

18 Q And then the policy form is attached to the letter,
19 the revised policy form is attached to the letter. Do you see
20 that?

21 A Yes.

22 Q And does the revised form delete the choice of law
23 provision?

24 A Yes.

25 Q With the deletion of the New York choice of law

Depo of RICHARD KOON, 7/10/12

1 provision was the policy form then approved by the Florida
2 Department of Insurance?

3 A It appears so, yes.

4 MR. FINGAR: Let's mark this as Exhibit 7.

5 *(EXHIBIT 7 MARKED FOR IDENTIFICATION.)*

6 Q Mr. Koon, what I have marked as Plaintiff's Exhibit 7
7 is Form Filing 02-00546, which is a Mid-Continent Casualty
8 Company form. Is that a form you produced as Item Number 4 on
9 Exhibit A?

10 MS. DOHENY: That would be correct.

11 Q And about halfway through the document, about 24 pages
12 in, is the transmittal letter for the policy from Mid-Continent
13 Group dated January 8, 2002.

14 A What did you say? I've got a different letter, I
15 think. What is the date of your letter?

16 Q January 8, 2002.

17 A Okay, got it.

18 Q This is the transmittal of Mid-Continent's form filing
19 seeking approval of the form by the Florida Department of
20 Insurance; is that correct?

21 A Yes.

22 Q And this is Mid-Continent's initial form filing for a
23 storage tank policy; is that correct?

24 A Yes.

25 Q And was this policy form approved?

Depo of RICHARD KOON, 7/10/12

1 A Yes.

2 Q If you look at -- do you have a Bates numbered copy
3 there?

4 MR. GRAY: It's got Form 4026.

5 Q You've got a Bates numbered copy. If you would look
6 at Page 000034, which is Page 9 of the Mid-Continent policy.

7 A Okay.

8 Q There is a choice of law provision, correct?

9 A Yes.

10 Q And, in fact, it's choice of law and forum in favor of
11 the State of Oklahoma; is that correct?

12 A Yes.

13 Q Mr. Koon, I'm going to mark this document.

14 MR. FINGAR: Let's mark this as 8, please.

15 *(EXHIBIT 8 MARKED FOR IDENTIFICATION.)*

16 Q It's a January 30, 2002 letter from the Department of
17 Insurance to Mid-Continent Casualty Company.

18 MR. FINGAR: Tim, I don't think this letter is in the
19 form filing package.

20 Q Was the Department requiring Mid-Continent to make
21 changes to their policy form in order to obtain approval?

22 A Yes.

23 Q And was one of those changes deletion of a choice of
24 law and forum provision or an amendment to the choice of law and
25 forum provision in favor of the State of Oklahoma?

1 A Yes.

2 Q And if you look at Bates Number Page 000022, you will
3 see a letter dated February 1, 2002, from Mid-Continent to the
4 Department of Insurance. Do you see that?

5 A Yes.

6 Q And by that letter did Mid-Continent make the changes
7 that were requested by the Florida Department of Insurance?

8 A The letter states that they did.

9 Q And if you flip to the next page, does the amendatory
10 endorsement amend the policy form?

11 A Yes.

12 Q And the amendatory endorsement changes the choice of
13 law and forum from the State of Oklahoma to the State of Florida;
14 is that correct?

15 A Yes.

16 Q Following that change, did the Department of Insurance
17 then approve the Mid-Continent policy form?

18 A Yes.

19 MR. FINGAR: Let's mark that as 9, please.

20 *(EXHIBIT 9 MARKED FOR IDENTIFICATION.)*

21 Q Mr. Koon, I have had marked as Plaintiff's Exhibit 9
22 Filing 03-12734, which is a form filing by Commerce and Industry
23 Insurance Company; is that correct?

24 A Yes.

25 Q And that's the same document that you have produced

1 today as Item 3 in Exhibit A to the notice of taking deposition?

2 A Yes.

3 Q And these were revisions to an existing approved
4 Commerce and Industry storage tank form; is that correct?

5 A Yes.

6 Q And if you look at the page that is Bates
7 Number 000262.

8 A Okay.

9 Q We see the choice of law clause in Paragraph N in
10 favor of the State of New York; is that correct?

11 A Yes.

12 MR. FINGAR: Once again, I think we have a letter that
13 may not be in your form filing. Can we mark that as 10,
14 please?

15 *(EXHIBIT 10 MARKED FOR IDENTIFICATION.)*

16 Q If you go back to Page 000262, you will see an
17 arbitration provision in Paragraph M. Do you see that?

18 A Yes.

19 Q And in that provision the policy provided for
20 arbitration in the insured's state of domicile. Do you see that?

21 A Yes.

22 Q And in Exhibit 10, the Department was requiring
23 Commerce and Industry to make a change so that arbitration would
24 be conducted in the insured's county of domicile; is that
25 correct?

Depo of RICHARD KOON, 7/10/12

1 A Yes.

2 Q And if you look at Page 000288 on the form filing,
3 there is a Florida amendatory endorsement; is that correct?

4 A Yes.

5 Q And under that endorsement, Commerce and Industry
6 revised its form so that arbitration would be conducted in the
7 insured's county of domicile; is that correct?

8 A Yes.

9 Q And with that change was the policy form approved?

10 A Yes.

11 MR. FINGAR: Let's mark that as 11, please.

12 *(EXHIBIT 11 MARKED FOR IDENTIFICATION.)*

13 Q Mr. Koon, Plaintiff's Exhibit 11 is Form Filing
14 05-03167; is that correct?

15 A Yes.

16 Q And that's Item 9 on Exhibit A to the subpoena?

17 A Yes.

18 Q If you look at the third page in, is the transmittal
19 letter, Zurich is proposing revisions to its previously approved
20 form; is that correct?

21 A New and revised forms.

22 Q And if you look at Bates Number Page 000245, it's part
23 of the policy form for which they are seeking approval; is that
24 correct?

25 A Yes.

Depo of RICHARD KOON, 7/10/12

1 Q And if you look at choice of law, there is a choice of
2 law provision in favor of the State of New York; is that correct?

3 A Yes.

4 Q And that would be contrary to the changes that the
5 Department required in the Zurich Form Filing 99-10944, which is
6 Plaintiff's Exhibit 6; is that correct?

7 A This is Exhibit 6, but --

8 MR. GRAY: Do you want to point him to the page?

9 Q Oh, I'm sorry (indicating).

10 A Yes.

11 Q You can set that aside, and I'm back to 11. If you
12 look at Page 000259, you will see a letter from the Department
13 now the Office of Insurance Regulation, to Zurich, indicating
14 that it was continuing its file review and seeking the Florida
15 amendatory endorsement; is that correct?

16 A It asks for an amendatory endorsement to amend the
17 cancellation provision.

18 Q Turn to Bates Number Page 000253, please.

19 A Okay.

20 Q Is that a letter in response to the April 1, 2005
21 letter from the OIR that we just discussed?

22 A Yes.

23 Q And this letter transmits a Florida state change
24 endorsement for the storage tank policy; is that correct?

25 A Yes.

1 Q And the next couple of pages, Bates Numbers 000254 and
2 255, are the Florida changes; is that correct?

3 A Yes.

4 Q And does the Florida change delete the New York choice
5 of law provision?

6 A Yes.

7 Q And with that change was this Zurich form approved?

8 A The change is stamped approved, the endorsement isn't.

9 Q That approval stamp would, in fact, on all of these
10 policies that have been approved indicate approval by either the
11 Department of Insurance or the Office of Insurance Regulation; is
12 that correct?

13 A The approval stamp does indicate that particular form
14 is approved, yes.

15 MR. FINGAR: Let's mark that as 12, please.

16 *(EXHIBIT 12 MARKED FOR IDENTIFICATION.)*

17 Q Exhibit 12 is Form Filing 06-08668, filed by
18 Mid-Continent, and is that the form that you have produced today
19 as Item 5 on the document production?

20 A Yes.

21 Q This document doesn't contain a checklist as did the
22 first documents that we have reviewed. Does the Office of
23 Insurance Regulation still use that checklist in the review of
24 policy forms?

25 A I doubt it. I'm certain the current checklist would

1 have been revised since that time.

2 Q Have you produced those checklists today in response
3 to the notice?

4 A I don't think those checklists were relevant to these
5 filings.

6 MS. DOHENY: No, there is no relevant response to Item
7 Number 10.

8 Q So in reviewing storage tank filings, there is no
9 checklist by which an analyst or whoever reviews the policy form
10 would use to determine whether the form should be approved or
11 not?

12 A There is a checklist that analysts use. Whether or
13 not the checklist was included in this filing, you're saying it
14 wasn't. I don't know why it wasn't.

15 Q I'm sorry if I misunderstood. I thought you said
16 there weren't any guidelines or checklists used for these
17 policies that were relevant to these policies.

18 MS. DOHENY: That was my understanding in speaking
19 with the business unit. Maybe I misunderstood. I didn't
20 believe there were commercial checklists relevant to storage
21 tank policies.

22 A My understanding is there are checklists for form
23 filings. If you are asking is there a checklist specific to
24 storage tank only --

25 Q No, I'm asking if there is a checklist that you use by

1 the office to review the storage tank policies.

2 A I believe there may exist a current checklist to
3 review any form filing.

4 MR. FINGAR: Tim, can we ask that that be produced? I
5 don't need it right now, but if we could get that.

6 MR. GRAY: Of course.

7 MR. FINGAR: Thank you.

8 BY MR. FINGAR:

9 Q Back to Exhibit 12, and if you look at the transmittal
10 letter dated June 30, 2006, which is on Page 2, this is a --
11 Mid-Continent is applying for approval of a form revision to its
12 previously approved policy form; is that correct?

13 A Yes.

14 Q And the second page to that is an explanatory
15 memorandum detailing what those changes are; is that correct?

16 A Yes.

17 Q And if you look at Page 7 of 7 of the policy.

18 A Okay.

19 Q Although it says choice of law, I will represent to
20 you that it's actually choice of law and forum in favor of the
21 law of the state in which the policy is providing coverage. Do
22 you see that?

23 A Yes.

24 Q And it also provides that litigation shall take place
25 in any such state; is that correct?

Depo of RICHARD KOON, 7/10/12

1 A Yes.

2 Q And was this policy form with that choice of law and
3 forum provision approved by the Office of Insurance Regulation?

4 A Yes.

5 Q In the form filings we've gone through we've seen
6 New York choice of law provisions approved in favor of Commerce
7 and Industry. Do you recall those form filings?

8 A Yes.

9 Q And we've seen New York or Oklahoma choice of law or
10 choice of forum provisions rejected on policy forms submitted by
11 Zurich and Mid-Continent, respectfully. Do you recall reviewing
12 those forms?

13 A Yes.

14 Q Can you offer an explanation as to why the Commerce
15 and Industry New York choice of law provisions have been approved
16 but the Zurich and Mid-Continent proposed policy forms were
17 rejected?

18 A I don't know why those analysts treated those files
19 differently, no.

20 Q Does the Office have the authority to revoke a form
21 approval?

22 A The Office can withdraw a form approval under 410, I
23 believe.

24 Q 627.410?

25 A Yes.

Depo of RICHARD KOON, 7/10/12

1 Q Does the Office have a position as to whether or
2 not -- and correct me if I'm using the wrong terminology. I'm
3 going to use the word foreign to apply to a state other than
4 Florida.

5 Does the Office of Insurance Regulation have a
6 position as to whether foreign choice of law or choice of foreign
7 provisions are contrary to the public policy of the State of
8 Florida as effectuated by the Office of Insurance Regulation.

9 MS. CURTIS: Objection to form.

10 A I don't believe our disapproval statute gives us the
11 authority to disapprove for a public policy argument. I would
12 prefer policies have choice of law for Florida. I'm not sure we
13 have legal authority to require that.

14 Q Are you familiar with -- let me ask you this: Who in
15 the Department would be responsible for reviewing case law that
16 might affect the operations of the Office of Insurance
17 Regulation?

18 MR. GRAY: I'm go to object as to what period of time.

19 Q If new cases are decided that might affect the
20 operations of the Office of Insurance Regulation, who would be
21 responsible for reviewing those cases determining whether or not
22 the Office is affected and whether any action ought to be
23 appropriate?

24 A There are cases decided every day, they go different
25 directions. We have attorneys that review case law as necessary.

1 Q And if they review case law and think that a case is
2 important, might they bring it to your attention?

3 A Maybe.

4 Q Let me show you a case from the Florida First District
5 Court of Appeal styled, "Land Sun Management Corporation v.
6 Commerce and Industry Insurance Company, and ask if you have ever
7 seen that case? I will give you a few moments.

8 A I don't recall seeing this case.

9 Q I will represent to you that the reason the Court
10 required Land Sun Management to bring an action against Commerce
11 and Industry in the State of New York was that the Commerce and
12 Industry policy form had been approved by the Office of Insurance
13 Regulation?

14 MS. CURTIS: Objection to form.

15 MR. GRAY: I will join, as the opinion is the best
16 evidence of its content. Do you want to repeat the
17 question?

18 MR. FINGAR: Would you read it back, please.

19 *(PENDING QUESTION READ BY REPORTER.)*

20 MS. CURTIS: Same objection.

21 MR. GRAY: I join.

22 BY MR. FINGAR:

23 Q Let me ask you this: Are you familiar with the
24 provisions of Section 627.428, Florida Statutes?

25 A I'm familiar with it.

1 Q I'm going to show you a case styled, Buck v.
2 Horseheads Industrial Capital Management out of the Western
3 District of New York.

4 MR. GRAY: Are we marking these?

5 MR. FINGAR: No.

6 MS. CURTIS: Do you have a copy of that?

7 MR. FINGAR: No.

8 BY MR. FINGAR:

9 Q The case states New York law with respect to
10 attorney's fees in litigation between the insured and the
11 insurance company.

12 And I will represent to you that under New York law,
13 as explained in that case, if an insured sues an insurance,
14 company there is no attorney's fee award if the insured prevails.
15 So New York law is contrary to Section 627.428, Florida Statutes.

16 MS. CURTIS: Objection to form, for many reasons.

17 Q Given the fact that New York law is contrary to
18 Florida Statutes with respect to the rights of Florida insureds,
19 would the Office of Insurance Regulation have the authority to
20 reject a New York choice of law provision in a foreign policy?

21 MS. CURTIS: Objection to form.

22 A I'm not sure.

23 Q I'm sorry?

24 A I'm not sure.

25 Q You will acknowledge that the current situation is

1 that there are carriers with foreign choice of law or choice of
2 foreign provisions that have been approved by the Office and
3 carriers with foreign choice of law or foreign provisions that
4 have not been approved by the Office, is that a correct
5 assessment of the current state of affairs?

6 A Yes.

7 Q Knowing this, what action, if any, would the Office of
8 Insurance Regulation have to make sure that all Florida insureds
9 have the same rights with respect to choice of law and forum
10 provisions?

11 MS. CURTIS: Objection to form.

12 A I'm not sure.

13 Q In fact, the Office of Insurance Regulation has known
14 about this problem for five years; is that correct?

15 MS. CURTIS: Objection to form.

16 A I don't know that it's a problem.

17 Q Why isn't it a problem?

18 A I don't know that there is a violation there.

19 Q The First District Court of Appeal has said that your
20 approval of the policy establishes that the policy does not
21 violate Florida public policy. Was the First District Court of
22 Appeal wrong?

23 MR. GRAY: I'm going to object to the form of that
24 question. It's asking for a legal interpretation.

25 Q You can answer.

1 A I don't know the answer.

2 MR. FINGAR: Let's mark this as 13.

3 *(EXHIBIT 13 MARKED FOR IDENTIFICATION.)*

4 Q Let me ask this question: Is it appropriate for the
5 Office of Insurance Regulation to discriminate between insurance
6 companies with respect to their choice of law and forum
7 provisions?

8 MS. CURTIS: Objection to form.

9 A I don't know that the Office is discriminating. The
10 company has a right to change language or not change language.

11 Q Wasn't the change in language required by the
12 Department in order for those companies to obtain approval of
13 their policies?

14 A They had asked for the changes.

15 Q Didn't they ask for the changes because they were
16 required to make those changes by the Department in its form
17 review process?

18 A The analyst did ask for them to make the changes.

19 Q Exhibit 13 is a series of e-mails between myself and
20 Steve Parton and Belinda Miller. Do you know who Steve Parton
21 is?

22 A Former general counsel.

23 Q Mr. Parton is no longer with the Department, or the
24 Office; is that correct?

25 A Correct.

1 Q And who is Belinda Miller?

2 A Belinda Miller is the current general counsel.

3 Q To your knowledge, has the Department taken any action
4 with respect to the issues raised with Mr. Parton and
5 Commissioner McCarty?

6 A Not to my knowledge.

7 Q The Office of Insurance Regulation does not review
8 policy forms created by surplus lines carriers; is that correct?

9 A Correct.

10 Q And so would it be fair to say that the Office of
11 Insurance Regulation offers no opinion as to the contents of a
12 policy form sold in Florida by a surplus lines carrier?

13 A We don't review them. We don't get them.

14 MR. FINGAR: That's all I have.

15 MR. GRAY: Let's take a break and line up these
16 exhibits.

17 *(BREAK WAS TAKEN.)*

18 MR. FINGAR: Mr. Koon and Mr. Gray, you have produced,
19 looking at Exhibit A to Plaintiff's Exhibit 1, which is the
20 subpoena duces tecum, you have produced Filing Forms 1
21 through 9; is that correct?

22 MS. DOHENY: That would be correct.

23 MR. FINGAR: And you haven't produced anything in
24 response to 10, other than the checklist that might be part
25 of these first nine policies; is that correct?

1 MS. DOHENY: Right. I will check on Number 10 and see
2 if there is a checklist pertinent to those nine filings. I
3 thought I had already done that, I apologize, but I will do
4 that.

5 MR. FINGAR: No problem. And you haven't produced
6 anything in response to Item 11?

7 MS. DOHENY: No. There is nothing to produce.

8 MR. FINGAR: And you haven't produced anything in
9 response to Item 12?

10 MS. DOHENY: That's correct.

11 MR. GRAY: Under Number 10, do you want the current
12 checklist that is being used?

13 MR. FINGAR: I want the checklist that is being used
14 just for those filings, if there are any.

15 THE WITNESS: Earlier you asked for the current
16 checklist, and this talks about the above-listed filings.
17 You didn't ask for them.

18 MS. DOHENY: Right. If you are wanting any current
19 checklists, that kind of changes what you are asking for in
20 10.

21 MR. FINGAR: That's fine.

22 THE WITNESS: Apparently the checklist for number --
23 whichever file it was that didn't have it, Mid-Continent or
24 whatever it was, was missing one, if that's what you are
25 asking for.

1 MR. FINGAR: Yeah, because then we can see if the
2 checklist changed during the course of those form filings,
3 because some of the form filings didn't have checklists.
4 So, no, I don't need a current checklist.

5 MS. DOHENY: Okay. So just double-check as to whether
6 there was a checklist for 06-08668 for Mid-Continent?

7 MR. FINGAR: Yes. Thank you.

8 **EXAMINATION**

9 BY MS. CURTIS:

10 Q Good morning, Mr. Koon, my name is Lauren Curtis. I
11 represent the Defendant in this case, Illinois Union Insurance
12 Company. The style of this case is Co-Free, Inc. v. Illinois
13 Union Insurance Company. Are you aware that Illinois Union
14 Insurance Company is actually a surplus carrier?

15 A I thought it wasn't, no.

16 Q Do you have any knowledge one way or another on that?

17 A I could verify it, but I do not know at the moment.

18 Q I think for purposes of my questions it would be worth
19 you verifying that they are, in fact, a surplus carrier, unless
20 we can have a stipulation --

21 MR. FINGAR: I will stipulate they are a surplus lines
22 carrier.

23 Q With that said, the testimony that you have given so
24 far today about the form approval process for the various forms
25 for Mid-Continent, Zurich, and Commerce and Industry, those were

1 admitted carriers, correct?

2 A Correct.

3 Q Can you explain the difference between a Florida
4 admitted carrier and a surplus carrier, just in very basic
5 layman's terms?

6 A Basically admitted carriers are subject to a variety
7 of statutes, some of which may not apply necessarily to the
8 surplus market. Surplus market is generally for a higher type of
9 risk, so it's different markets. It's basically unregulated, for
10 the most part.

11 Q You mentioned that your office does not review forms
12 in surplus insurance policies, correct?

13 A Correct.

14 Q The statutes that you mentioned earlier, 627.410 and
15 627.411, those statutes govern admitted carriers, not surplus
16 carriers, correct?

17 A Correct.

18 Q And in that form approval process that is set forth in
19 those statutes is the process that you were asked about today
20 with regard to the admitted carriers, Commerce and Industry,
21 Mid-Continent, and Zurich, correct?

22 A Correct.

23 Q In terms of obtaining surplus insurance in the State
24 of Florida, how does that happen, or why would it be that someone
25 is getting insurance with a surplus carrier versus an admitted

1 carrier?

2 A Generally a particular insured or a potential insured
3 may not be subject to the underwriting, may not meet the
4 underwriting requirements of the admitted carrier. And surplus
5 market is a little bit different, they can negotiate terms.

6 Q And so, in essence, if a Florida insured cannot obtain
7 insurance from an admitted carrier, they go to the surplus lines
8 market?

9 A Yes. There is an eligibility thing in the statute. I
10 think you have to have a couple of rejections or something like
11 that to be eligible. But, yes.

12 Q So, in essence, if a Florida insured is unable to
13 obtain insurance for a certain risk through the admitted market,
14 their options are to have no insurance or go to the surplus
15 market?

16 A Yes.

17 Q Has your office ever reviewed for approval a foreign
18 forum selection clause in a surplus policy?

19 A Not to my knowledge.

20 *(EXHIBIT 14 MARKED FOR IDENTIFICATION.)*

21 Q So it would be fair to say in this case that your
22 office did not review in any respect the insurance policy that is
23 at issue in this particular case issued by the surplus carrier
24 Illinois Union Insurance Company that has been marked as
25 Exhibit 14?

1 A Correct.

2 Q And as you sit here today as the deputy commissioner
3 of the Florida Office of Insurance Regulation, you do not have an
4 opinion one way or another whether surplus lines policies should
5 or should not have foreign forum selection clauses, do you?

6 MR. FINGAR: Asked and answered.

7 A I have an opinion. I don't know what the legal
8 position would be or legal requirement would be.

9 Q Let me go back. Your office doesn't regulate or
10 approve forms of surplus carriers, correct?

11 A Correct.

12 Q And we went through your testimony that there have, in
13 fact, been instances where your office has approved foreign forum
14 selection clauses for admitted carriers, correct?

15 A Correct.

16 Q And there are also instances where your office has
17 disapproved foreign forum selection clauses for admitted
18 carriers, correct?

19 A I don't recall whether one was disapproved. I think
20 they were amended and approved.

21 Q Okay. And other than the cases that we discussed
22 today, there have been other instances in which your office has
23 approved foreign forum selection clauses for admitted carriers,
24 correct?

25 A I don't know outside of what we looked at today.

1 Q But we do know, for purposes of today, that your
2 office did approve a foreign forum selection clause for an
3 admitted carrier, that was the Commerce and Industry policy,
4 correct?

5 A Correct.

6 Q And that was a New York forum selection clause,
7 correct?

8 A Correct.

9 Q As you sit here today, are you able to cite any
10 statute, rule, regulation, or case that prohibits the use of
11 foreign forum selection clauses in surplus lines policies, or
12 even addresses that issue?

13 A I can't.

14 Q Has your office taken a formal position on public
15 policy considerations with regard to foreign forum selection
16 clauses contained in surplus lines policies?

17 A Not to my knowledge.

18 Q And we discussed earlier the fact that if a Florida
19 resident or a Florida insured or a Florida business is going to
20 surplus market it's because they couldn't obtain insurance from
21 the admitted market, right?

22 A That's generally the case.

23 Q Would you agree that it is a public policy benefit to
24 Florida residents to at least be able to get this surplus
25 insurance versus being uninsured?

Depo of RICHARD KOON, 7/10/12

1 A There is definitely a need for the surplus market.

2 Q And that's a benefit to our Florida residents,
3 correct?

4 A Yes.

5 Q It's better for the Florida residents to have some
6 insurance than no insurance at all, correct?

7 A Correct.

8 Q And I just want to make clear, the Mid-Continent forms
9 that you were asked about, Exhibits 7, 8, and 12, related to
10 Mid-Continent which is an admitted carrier, correct?

11 A Correct.

12 Q And the form approval process for admitted carriers is
13 set forth in 627.410, Florida Statutes, correct?

14 A Correct.

15 Q The statute that does not apply to surplus carriers,
16 correct?

17 A Correct.

18 Q The same question for Zurich, all of the questions you
19 were asked about the Zurich policy forms pertain to Zurich as an
20 admitted carrier, correct?

21 A Correct.

22 Q And the form approval process is set forth in 627.410
23 and 627.411, Florida Statutes, correct?

24 A Correct.

25 Q The statutes that govern admitted carriers, not

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1 surplus carriers, correct?

2 A Correct.

3 Q And then with the Commerce and Industry, that is also
4 an admitted carrier, correct?

5 A Correct.

6 Q And, in fact, that is at least, I believe, two
7 instances in which your office has approved foreign forum
8 selection clauses for a Florida admitted carrier, correct?

9 A Yes.

10 Q And that would be for an insurance company that is
11 authorized to do business in the State of Florida, correct?

12 A Yes.

13 Q And, in fact, that is a Florida company, correct?

14 A I'm not sure if they are domiciled in Florida, if
15 that's your question. I'm not positive.

16 Q Are you aware that the Illinois Union Insurance
17 Company policy that we're here about in this particular case
18 contains a New York forum selection clause very similar to the
19 Commerce and Industry clause that was approved by your office?

20 A I wasn't aware of that.

21 Q If you look at Exhibit 14, the forum selection and
22 choice of law provision is at Page 9 of 9 of the policy form.

23 A Okay.

24 Q If you would take a look at that.

25 A Okay.

Depo of RICHARD KOON, 7/10/12

1 Q Would you agree that that New York forum selection and
2 choice of law clause is similar to the Commerce and Industry
3 New York choice of law and forum clause that your office has
4 approved for an admitted carrier?

5 A Similar, yes.

6 Q Because your office doesn't regulate the surplus
7 carriers, is it fair to say that you have no opinion in this case
8 as to whether Exhibit 14 of the Illinois Union policy was
9 properly written under the surplus lines law?

10 A I have no opinion whether or not it was properly
11 written under the surplus lines law.

12 Q And you have no knowledge whatsoever regarding the
13 underwriting process with respect to that policy, do you?

14 A No knowledge of the underwriting process.

15 Q Would there be a way for your office to search for
16 instances in which foreign forum selection clauses were approved
17 in admitted policies other than the Commerce and Industry policy?

18 A You're asking could we research all the forms that
19 have been approved?

20 Q Would there be a way to search to determine if there
21 have been, right, other forms approved?

22 A There would not be an easy way to search. You would
23 have to pull all the policies and review them independently. A
24 lot of these policies aren't even in our record retention any
25 more. We couldn't even look at most of these policies. We

1 wouldn't have them.

2 Q Are your forms available to the public online?

3 A They are, and most forms, I believe, after the year
4 2000 maybe.

5 Q And is that a database that can be searched by the
6 public?

7 A Yes.

8 Q And where is that located, that database?

9 A Where is the database housed itself?

10 Q How do you access it? How would a public person
11 access it?

12 A They would go to our website and there are links to
13 the filings, to the search filings.

14 Q And would the forms that are publicly available be
15 similar to the types of forms that we have gone over today?

16 A Yes.

17 Q They would have the cover letters back and forth
18 between the carrier and your office and the stamp of approval and
19 all of those things?

20 A Yes.

21 Q Are you able to say as you sit here today whether it's
22 more likely than not that your office has, in fact, approved
23 other foreign forum selection clauses in admitted policies other
24 than the Commerce and Industry policy?

25 A It's possible.

1 MS. CURTIS: Thank you. I have no other questions.

2 MR. FINGAR: Can you read back Ms. Curtis's last
3 question?

4 *(PREVIOUS QUESTION READ BY REPORTER.)*

5 **FURTHER EXAMINATION**

6 BY MR. FINGAR:

7 Q Did you understand Ms. Curtis's question to relate to
8 storage tank policies or all admitted policies?

9 A I think the question was open-ended, any policy. I
10 don't recall. But, yes, any policy.

11 Q Is the surplus lines policy form approved by any
12 state?

13 A Not to my knowledge, not in Florida. I don't know
14 what other states do with surplus policies.

15 Q So, for example, you don't know whether the Illinois
16 Union policy has been approved by, say, either state or domicile?

17 MR. GRAY: Form.

18 A I think most states do not approve surplus lines
19 policies. I don't know if any do, but I believe most don't.

20 Q So if I understand, it's possible that no state
21 regulatory agency has reviewed the Illinois Union policy as a
22 surplus lines policy?

23 A It's possible.

24 MR. FINGAR: That's all I have.

25 MS. CURTIS: I have nothing else.

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MR. FINGAR: Thank you.

*(DEPOSITION CONCLUDED AT 11:05 A.M.
READING AND SIGNING WAS WAIVED.)*

CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, ELIZABETH CLEARY, Registered Professional Reporter,
and Notary Public in and for the State of Florida at Large:

DO HEREBY CERTIFY that the foregoing deposition was
taken before me at the time and place therein designated; that
before testimony was taken, the witness was personally appeared
before me and was first duly sworn by me to testify to the truth
on the date and time indicated herein; that my shorthand notes
were thereafter transcribed, via computer, under my supervision,
and the foregoing pages numbered 1 through 44 are a true and
correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee,
attorney, or counsel of any of the parties, nor relative or
employee of such attorney or counsel, or financially interested
in the foregoing action.

WITNESS MY HAND AND SEAL, this 24th day of JULY,
2012, IN THE CITY OF TALLAHASSEE, COUNTY OF LEON,
STATE OF FLORIDA.

ELIZABETH CLEARY
Registered Professional Reporter
Post Office Box 306
Tallahassee, Florida 32302

Hopping Green & Sams

Attorneys and Counselors

July 18, 2014

By Electronic Mail

William E. Burns, Jr.
Environmental Administrator
Compliance Assistance
Division of Waste Management
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: Chapter 62-761, F.A.C. (Underground Storage Tank Systems);
June 17, 2014, Rule Draft

Dear Bill:

On behalf of the Florida Electric Power Coordinating Group, Inc. Environmental Committee (FCG) and Florida Power & Light Company (FPL), I am submitting this letter for the purpose of providing written comments in regard to proposed rule amendments to Chapter 62-761, Florida Administrative Code (F.A.C.) that were the subject of a Florida Department of Environmental Protection (FDEP or Department) rule development workshop on June 25, 2014. The FCG is a not-for-profit association of twenty-eight (28) investor-owned, municipally-owned, and cooperatively-owned electric utilities engaged in the business of providing the majority of electric power to the public in the State of Florida. FPL is the largest electric utility in Florida and one of the largest rate-regulated utilities in the United States. FPL generates power from 15 power plants and delivers it by way of 69,350 miles of power lines to approximately 4.5 million customers in about half the State of Florida. FCG member electric utilities and FPL own and operate underground storage tank systems (USTs) and undertake activities which are subject to the provisions of Chapter 62-761, F.A.C.

The FCG's and FPL's joint written comments concerning the agency draft rule amendments are provided below and, where appropriate, reference page and line numbers in the FDEP June 17, 2014, rule draft that was made available through FDEP's website and at the June 25, 2014, rule development workshop. The FCG and FPL hope that to the extent FDEP agrees to incorporate these comments, such comments are included in the next version of the rule draft that the agency develops.

General Comments

During the December 2013 rule development workshop, agency staff expressed that any new regulatory requirements proposed during this rulemaking are to apply only to storage tank systems installed or constructed after the effective date of the proposed rule amendments and that such new requirements were not to apply to existing storage tank systems (except where specifically indicated otherwise). Upon the FCG's and FPL's review of the June 17, 2014, workshop draft, they believe that this point still remains somewhat unclear. As a result, the FCG and FPL suggest that FDEP develop rule language in the appropriate section(s) of the rule chapter indicating that each new regulatory requirement, unless otherwise indicated, applies only to storage tank systems installed after the legal effective date of the rule amendments. Indeed, an example of such language has been included by FDEP on page 9, lines 25-28 of the rule draft at Rule 62-761.211(3), F.A.C. The FCG and FPL suggest the following language in this regard for FDEP's consideration:

This chapter has been substantially amended several times since it was first promulgated. Except as otherwise specifically provided herein, storage tank systems installed, modified, or relocated prior to the [effective date of current proposed rule amendments] remain subject to the provisions which were in effect at the time the storage tank system was installed, modified, or relocated.

Specific Comments – Chapter 62-761, F.A.C.

1. Rule 62-761.200; page 1, line 38 – page 7, line 52. Throughout this section of the rule, FDEP is deleting terms currently defined in the rule chapter which also appear in Florida Statutes. The FCG and FPL believe that these statutory definitions should be retained to further assist the regulated community by eliminating the need to refer to additional sources in determining the meaning of terms used throughout the rule chapter. Maintaining these terms in the "Definitions" section of the rule chapter will promote better understanding of the rule and ultimately better compliance with rule provisions.
2. Rule 62.761.200(14); page 2, lines 51-53. Consistent with workshop discussion, the FCG and FPL suggest that the phrase "a previously unreported" be inserted on line 53 between the words "of" and "incident" and that the word "an" be deleted. This modification clarifies agency intent.

3. Rule 62-761.200(); page 3, lines 46-47. As discussed during the June 25 rule workshop, the FCG and FPL understand that the agency is considering deleting the definition of "high viscosity" as review by the agency of its storage tank registration database did not reflect that there are any USTs containing high viscosity substances. Nevertheless, the FCG and FPL believe it may be prudent to retain this definition should there be errors in FDEP's registration database or should there be a discovery of an unregistered UST containing high viscosity pollutants.
4. Rule 62-761.200(22); page 3, line 53 through page 4, line 3. The FCG and FPL understand that NACE International Standard RP0892-92 has been updated and the current citation is SP0892-2007.
5. Rule 62-761.200(28); page 4, line 37. Regarding the definition of the term "interstitial integrity test", the FCG and FPL would like to know whether the term "liquid level monitoring systems" includes traditional "stick testing" that is employed for double-walled tanks to check for liquid in the interstitial test tube?
6. Rule 62-761.200(33); page 5, lines 9-10. The FCG and FPL believe that the proposed term "new" in the rule draft may not fully address prospective application of new technical requirements. In this regard, the FCG and FPL refer FDEP to the draft "grandfathering" language suggested in the FCG and FPL's general comments.
7. Rule 62-761.300(1)(a); page 9, lines 35-40. The FCG and FPL do not understand the intent behind the agency's proposed deletion of language in the applicability section that outlines the types of regulated substances or pollutants and dates after which storage tanks that contained or contain such materials were subject to regulation. These provisions should be retained.
8. Rule 62-761.300(2)()&(); page 9, lines 54-56. As discussed at the December 2013 rule development workshop, the FCG and FPL believe that the two current exemptions for tanks containing asphalt or asphalt products which do not contain other pollutants and storage tank systems storing pollutants that are solid or gaseous at standard temperatures and pressures should be retained in this section of the rule.
9. Rule 62-761.300(2)(q); page 10, lines 19-21. The FCG and FPL believe that the current rule language outlining the exemption for flow-through process tank systems should be retained. What is FDEP's rationale for eliminating this language?
10. Rule 62-761.400(1)(b); page 10, lines 49-54. The FCG and FPL suggest that the submittal of the initial storage tank registration form continue to be required no later than 30 days after regulated substances are first placed in the storage tank. The FCG and FPL are concerned that accurate registration information may not be available prior

to adding regulated substances into the tank. Additionally, the FCG and FPL could not identify statutory language in Chapter 376, F.S. that requires this change.

11. Rule 62-761.405; page 12; lines 13-41. As a general comment, the FCG and FPL believe that the various notification requirements may be more easily understood if the requirements were organized in a table format.

12. Rule 62-761.430(1)(a)1.; page 13, lines 13-17. In Rule 62-761.430(1), F.A.C., incident notification requirements for corrosion that might reflect a potential discharge have been improved since the December 2013 workshop draft. As an initial comment, pitting is one type of corrosion that might cause 50% loss of original design thickness. General corrosion could also cause 50% wall loss. To clarify this point, the FCG and FPL suggest inserting the phrase "or general" after the word "pitting" on line 14. Furthermore, the phrase "softening signs of corrosion, cracks, structural damage" on lines 15 and 16 should be modified to read "softening". The FCG and FPL are not certain what is meant by the phrases "softening signs of corrosion" and "structural damage" and they are vague and ambiguous. Finally, the word "cracks" on line 15 is redundant and should be deleted.

13. Rule 62-761.430(1)(), page 13, between lines 42 and 43. The FCG and FPL believe that the existing rule language requiring incident notification for only those releases into secondary containment exceeding 100 gallons should be retained and reinstated in this rule section and subsequent paragraphs re-lettered accordingly.

14. Rule 62-761.440(1)(d), page 14 line 26. The FCG and FPL suggest that the phrase "except as provided in Rule 62-761.440(5), F.A.C." be inserted after the word "surface." This suggested change clarifies agency intent.

15. Rule 62-761.440(5)(a); page 14, line 34. Consistent with discussion at the June 25 workshop, the phrase "department or" should be inserted before the word "appropriate". Throughout this rule section, notification of a discharge is to be provided to the County. The FCG and FPL question whether that should be the case in all instances and whether it might be appropriate to include the Department as an additional entity that may receive a DRF.

16. Rule 62-761.440(5)(b); page 14, line 35. To clarify agency intent, the FCG and FPL suggest that the rule citation be revised to include reference to subsection (1) of Rule 62-780.560, F.A.C. for petroleum or petroleum product de minimis discharges of less than 25 gallons. Subsection (2) of that rule section references discharges of 25 gallons up to 500 gallons that are not associated with regulated petroleum storage systems. The suggested change clarifies agency intent and requirements.

17. Rule 62-761.500(1)(d)1.; page 16, lines 12-14. FDEP draft rule language appears to reflect that Vapor Corrosion Inhibitors (VCI) technologies provide an alternative to cathodic protection for metal surfaces within secondary containment. The FCG and FPL do not believe VCI is a substitute for cathodic protection on the tank or piping surface exposed to soil. While VCI may provide corrosion control benefits for the interstitial space of secondary containment, it is not as important a consideration compared to the corrosive effects of soil and groundwater outside of the primary tank or piping surface. As a result, it should be made clear when references are made to VCI requirements that those requirements are only applicable if VCI is used and that VCI use, in and of itself, is not mandatory.

18. Rule 62-761.500(1)(e); page 16, lines 18-22. FCG and FPL request further clarification from FDEP on how an owner/operator documents compatibility for existing systems.

19. Rule 62-761.500(3)(g); page 18, lines 20-26. Draft rule language regarding the need to add certain types of valves for storage tank systems and integral piping that produce a gravity head on the dispenser or on small diameter piping needs to be revised to recognize the use of such valves in industrial and other applications. Significant agency consideration should be given to whether such valves should be used in situations where such tank systems provide fuel to emergency generators for hospitals, power plants, and other important infrastructure and related services.

20. Rule 62-761.600(1)(e); page 19, lines 45-56. Consistent with a prior comment, the FCG and FPL believe that the presence of corrosion, in and of itself, should not constitute a positive response of a release detection device requiring incident notification. The phrase "or general" should be inserted after the word "pitting" on line 49 and the phrase "structural damage" should be deleted on line 50. On line 47, after the reference to Rule 62-761.710, F.A.C., the following phrase should be inserted: "unless the storage tank system or system component is out of service in accordance with Rule 62-761.800(1), F.A.C."

21. Rule 62-761.600(1)(i); page 20, lines 27-30. Current Rule 62-761.600(4) exempts UST systems that store fuel solely for use by emergency power generators from release detection requirements. This exemption is consistent with the current deferral for these types of systems in EPA's UST rules found at 40 C.F.R. Section 280.10(d). EPA is currently in rulemaking to revise its UST rules and EPA is proposing to eliminate this current system deferral. If EPA ultimately promulgates revised UST standards that remove the current deferral for these types of systems, the FCG and FPL request that existing USTs associated with emergency power generators be provided one year from

the legal effective date of any such EPA rule amendments to implement appropriate release detection methods. If FDEP's current draft rule were to become legally effective before EPA's promulgation of its revised UST standards, then FDEP's rules would be more stringent than identical EPA rules. This FDEP change would then necessitate review and approval by the Governor and Cabinet in accordance with Section 403.804(2), Florida Statutes.

22. Rule 62-761.700(2)(e)1.b; page 24, lines 2-6. The FCG and FPL do not understand why USTs with VCI protection that is depleted must be closed if the VCI system is not replenished within 90 days when a VCI system is not mandatory in the first instance.

23. Rule 62-761.700(3)(a)1.b.; page 24, lines 15-16. The FCG and FPL do not believe it is necessary to require integrity testing for double-walled integral piping every 5 years. Indeed, integrity testing may actually cause leaks in double-walled integral piping that otherwise would not occur.

24. Rule 62-761.710(2)(e); page 25, line 5. As stated during the rule development workshop, the FCG and FPL maintain that it is unnecessary to retain all historical financial responsibility records until storage tank system closure for those owners/operators who "self-insure." Financial responsibility is required to be updated on an annual basis and the FCG and FPL believe that only the most recent 3 years of financial assurance information should be required to be kept at the facility. In that regard, FCG and FPL propose the following rule language on line 5:

- (e) Records to demonstrate financial responsibility where the owner or operator has demonstrated financial responsibility in accordance with 40 C.F.R. Sections 280.95 or 280.96.

During the workshop, FDEP staff also indicated that the agency's rule draft would be further modified to require that records to demonstrate financial responsibility are to be maintained until storage tank system closure. If this is the agency's ultimate intent, then the FCG and FPL would propose the following language consistent with the immediately preceding comment:

Except as provided in Rule 62-761.710(2)(e), F.A.C., records to demonstrate financial responsibility shall be maintained until storage tank closure.

25. Rule 62-761.800(1)(a)3.; page 25, lines 48-52. The FCG and FPL believe that it is unnecessary for interstice monitoring or liquid level monitoring to occur while a tank is out of service. Out of service storage tanks are required to remove all product prior to

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being placed out of service. Empty storage tank systems pose little threat to the environment and therefore should not be required to conduct any monitoring.

26. Rule 62-761.800(2)(a)2.; page 26, line 29. As discussed during the December 2013 rule workshop, the draft language requiring that a storage tank system that fails to meet the requirements of Rule 62-761.500, F.A.C. must be closed is overly broad and could be misinterpreted by County program inspectors. To address this concern, the FCG and FPL recommend the language be deleted in its entirety.

The FCG and FPL very much appreciate the consideration that FDEP gives its comments and comments of the regulated community. After you have reviewed these comments, should you have any questions, please do not hesitate to contact me at (850) 425-2254.

Sincerely,

Hopping Green & Sams

By: 
Michael P. Petrovich

Attorneys for the Florida Electric Power
Coordinating Group, Inc., Environmental
Committee

and

Florida Power & Light Company

cc: Rebecca Robinette, Esq., FDEP
FCG Solid Waste Subcommittee
Mark Jones, Florida Power & Light Company
Eric Hamilton, Florida Petroleum Council
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July 3, 2014
DELIVERY BY ELECTRONIC MAIL

Mr. William. Burns, Jr.
Bill.Burns@dep.state.fl.us
Bureau Chief
Bureau of Petroleum Storage Systems
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Re: Chapter 62-761 Rulemaking
June 18, 2014 Workshop Draft

Dear Bill:

We are pleased to represent the Florida Petroleum Marketers and Convenience Stores Association, Inc. ("FPMA"). These comments are intended to supplement the comments we provided at the June 18, 2014 Rulemaking Workshop held in Tallahassee, Florida.

62-761.200 Definitions.

(9) "Closure Report Form" – Although the Closure Report Form has not yet been made available, we understand that the Closure Integrity Evaluation will largely suffice as the Closure Report Form. We would encourage the Department to minimize the time and expense associated with the Closure Report Form in such cases.

(14) "Discovery" – On page 2, line 53, before the word "incident" insert: unreported.

(34) "On-site" – On page 5, line 12, strike the words "and which may" and insert: even though the properties.

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(49) “Residential storage tank system” – On page 6, line 49, add: The term also includes on-site storage tank systems servicing uses that are ancillary to the residential character of the property and the property is not regulated pursuant to Chapters 718 through 723, Florida Statutes.

(57) “Vapor Corrosion Inhibitor” (VCI) – Are there non-metallic components that a VCI might protect from the effects of damaging agents? If so, what type of professional should be involved in the application?

62-761.300 Applicability.

(2) Exemptions.
* * *

(w) – We recommend retaining the exemption for loading racks.

62-761.400 Registration

We understand that this rulemaking does not include rules relating to revocation of registration placards (subsection (6)) and delivery prohibitions (subsection (7)). We are concerned, however, that subsection (5) describes the posting of a “current” registration placard. “Current” should mean a facially-valid placard. If the placard has been revoked, the revocation should not be effective as to the supplier until the supplier receives actual notice.

62-761.420 Financial Responsibility

On page 12, line 49, financial responsibility requirements are stated to apply to the owner or operator of a facility or of individual tanks. Under 40 CFR 280.90(a), the owner and operator of the UST system is subject to financial responsibility requirements. Under 40 CFR 280.90(e), if the owner and operator are separate, only one need comply, though both are liable for non-compliance. It may be that providers have determined that facility owners or operators have an insurable interest and may obtain coverage. However, they are not required to do so. Therefore, we suggest as follows:

On page 12, line 49, strike “a facility, or individual tanks, if of different ownership” and insert: storage tanks, and the facility owner or operator may demonstrate,.

We note that the remaining two sentences in this section correctly state the requirements of 40 CFR 280.90(e).

On page 13, line 6, we recommend a new subsection (5) as follows:

(5) Financial responsibility mechanisms may not include choice of law and venue providing favoring jurisdictions other than Florida.

We note that the only financial responsibility mechanism subject to review by the Florida Office of Insurance Regulation (“OIR”) are policies issued by admitted (i.e., non-surplus lines) insurance companies. However, the OIR takes the position that a policy form filed by an authorized insurer need only state that it is in compliance with “applicable Florida laws and rules” (see section 627.4102, Florida Statutes), and the requirements of section 627.410, Florida Statutes. Nonetheless, the OIR has both rejected and approved non-Florida choice of law and venue provisions. (See Deposition of Richard Koon, attached.) Given the state’s interest in having financial responsibility available to responsible parties and the Department’s own direct interest in enforcing financial responsibility under section 376.309, Florida Statutes, the Department has an overriding interest in the conduct of coverage litigation under Florida law and in Florida courts.

62-761.430 Incidents

On page 14, line 3, after “discharge” add: including documentation showing that contamination is the manifestation of a previously reported discharge.”

Subsection (f)

Rule 62.761.405(3) requires notification of the discovery of an incident. Rule 62-761.430(1) and 62-761.200(24) define “incident.” The requirement in subsection (8) requiring documentation of incidents that need not be reported is confusing, at best. Perhaps the Department means:

All investigations of incidents, regardless of whether a release or discharge is found to have occurred, shall be submitted

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62-761.440 Discharges

On page 14, line 34, before “appropriate county” add: the Department or.

On page 14, lines 53-54, if the system is drained, the three-day testing requirement is too stringent, particularly if the system is placed out-of-service.

62-761.710 Recordkeeping

We suggest a new subsection (3) be added:

(3) The Department strongly encourages that all records relating to financial responsibility be maintained permanently.

61-761.800 Out-of-Service and Closure Reports

On page 26, lines 24-25, the two-year and ten-year out-of-service limits should be deleted and the rule conformed to 40 CFR 280.70 for any corrosion-resistant system.

62-761.850 Alternate Procedures and Equipment Registration

(2) Registration of storage tank system equipment and release detection systems and methods.

If it unclear how a registration may be revoked or not approved. The language in subsection (i) describes “information submitted to the Department in accordance with this subsection.” However, the subsection describes information supporting the request for registration as opposed to information that the Department may obtain from its inspectors, owners, operators, and others showing that equipment is not properly performing. At a minimum, the language “in accordance with this subsection” on page 29, lines 51-52 should be deleted.

Incident and Discharge Reporting

We would encourage the Department to provide a central repository for incident and discharge report forms, at a minimum. Even if the Department does not have the resources to “mine” the data, merely being able to track the number of discharges and incidents would be extremely valuable.

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We appreciate the opportunity to provide these comments and again wish to commend the Department staff for its efforts in this rulemaking. If you have any questions regarding our comments, please contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. D. Fingar", is positioned above the printed name.

Robert D. Fingar

RDF/cg
Attachment

cc: Mr. Ned Bowman, FPMA (via email w/o attachment)
Mr. Randy Miller, FRF (via email w/o attachment)

CHAPTER 62-761
UNDERGROUND STORAGE TANK SYSTEMS

62-761.100 Intent
62-761.200 Definitions
62-761.210 Reference ~~Requirements~~ Standards
62-761.300 Applicability
~~62-761.350~~ Operator Training and Certification (Reserved for Rulemaking)
62-761.400 Registration ~~and Financial Responsibility~~
~~62-761.405~~ Notification
62-761.420 Financial Responsibility
~~62-761.430~~ Incidents
~~62-761.440~~ Discharges
~~62-761.450~~ Notification and Reporting (Repealed)
62-761.500 Storage Tank System Requirements Performance Standards for Category C Storage Tank Systems
~~62-761.510~~ Performance Standards for Category A and Category B Storage Tank Systems (Repealed)
62-761.600 Release Detection ~~Requirements~~ Standards
~~62-761.610~~ Release Detection Methods (Repealed)
~~62-761.640~~ Performance Standards for Release Detection Methods (Repealed)
62-761.700 Repairs, Operation and Maintenance of Storage Tank Systems
62-761.710 Recordkeeping
62-761.800 Out-of-Service and Closure Requirements
~~62-761.820~~ Incident and Discharge Response (Repealed)
62-761.850 Alternative Procedures ~~Requirements~~ and Equipment Registration Approvals
62-761.900 Storage Tank Forms

62-761.100 Intent.

(1) The purpose of this Chapter is to provide requirements standards for the registration, construction, installation, operation, maintenance, repair, closure, and disposal of underground storage tank systems that store regulated substances, in order and to minimize the occurrence and environmental risks of releases and discharges. This Chapter provides requirements standards for underground storage tank systems having individual storage tank capacities greater than 110 gallons.

(2) No change.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.100, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.200 Definitions.

All words and phrases defined in Sections 376.301 and 376.79, F.S., shall have the same meaning when used in this chapter unless specifically stated otherwise in this chapter. See Sections 376.301 and 376.79, F.S., for definitions of the following terms: “Contaminant (contamination shall mean the same as contaminant),” “Contaminated site,” “Department,” “Discharge,” “Facility,” “Hazardous substances,” “Operator,” “Owner,” and “Pollutants.” The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings: ~~The following words, phrases or terms used in this chapter, unless the context indicates otherwise, shall have the following meaning:~~

(1) No change

(2) “Biofuel” means fuel produced from renewable resources especially, but not limited to, organic feedstocks such as plant biomass, vegetable oils, animal fats and treated municipal and industrial wastes. ~~“AST” means an aboveground storage tank.~~

(3) “Bulk product piping” means on-site integral piping with an internal diameter greater than three inches that is utilized for transporting regulated substances.

~~(3)~~(4) “Cathodic protection” means a method of preventing corrosion of a metal surface by making that surface the cathode of an electrochemical cell through the use of devices such as galvanic anodes or impressed current.

~~(4)~~(5) “Cathodic Protection Tester” means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank

systems and be certified as a NACE or STI cathodic protection tester.

(5)(6) “Certified Contractor” means a Pollutant Storage System Contractor certified by the Department of Business and Professional Regulation in accordance with Chapter 489, F.S. Except for the exemptions specified in Chapter 489, F.S., Certified Contractors are not required for activities that do not involve excavating or disturbing the backfill around UST systems. Certified Contractors are the only contractors authorized to perform the following activities for underground pollutant storage tank systems:

(a) Installation of:

1. USTs or integral piping, excluding drop tubes;
2. Overfill protection and spill containment;
3. Secondary containment;
4. Internal release detection devices;
5. Cathodic protection systems; and
6. Dispenser liners when the integral piping is connected or disconnected during the installation of secondary

containment.

(b) Removal of tanks or integral piping; and

(c) Internal lining of tanks.

(6) “Certified Contractors Form” means Underground Storage Tank Installation and Removal Form for Certified Contractors 62-761.900(5).

(7) “Chlorine” includes organic and inorganic compounds that are liquids at standard temperature and pressure that, when discharged, may release free chlorine (Cl₂) or chlorides (Cl⁻).

(8) “Closure Integrity Evaluation” is an assessment of storage tank system integrity that is performed at permanent closure. It is the evaluation of the tightness of the interstitial space or containment of a storage tank, piping, or other storage tank system equipment or component that is double-walled, has secondary containment, or has a release prevention barrier.

(9) “Closure Report Form” means a short summary of facility closure information that includes documentation of the the Closure Integrity Evaluation and other supporting information as required in Rule 62-761.900(7), F.A.C.

(10)(8) “Compatible” means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the storage tank system under conditions likely to be encountered in the storage tank system.

(9) “Contamination” or “contaminated” means the presence of regulated substances in surface water, groundwater, soil, sediment, or upon the land, in quantities result in exceedances of applicable cleanup target levels specified in Chapter 62-770, F.A.C., where petroleum or petroleum products are present, or water quality standards in Chapter 62-3, 62-302, or 62-550, F.A.C.

(11)(10) “Corrosion Professional” means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal components of a storage tank system. Corrosion Professionals shall be accredited or certified by NACE International as a either a Cathodic Protection Specialist or Corrosion Specialist, or be a professional engineer licensed registered in the State of Florida. Corrosion Professionals using vapor corrosion inhibitor technologies for corrosion control must have experience with and knowledge of vapor corrosion inhibitors, and installation certification from the vapor corrosion inhibitor technology registered in accordance with Rule 62-761.850(2), F.A.C.

(12) “Corrosion Protection” means the minimization of corrosion by the use of cathodic protection or by the use of vapor corrosion inhibitors.

(13)(11) “County” means a locally administered governmental program under contract with the Department to perform compliance verification activities at facilities with storage tank systems within the boundaries stipulated in the applicable contract.

(12) “Discharge” includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substance which occurs and which affects lands and the surface and ground waters of the state.

(14)(13) “Discovery” means:

(a) ~~Either actual knowledge or knowledge of facts that could reasonably lead to actual knowledge of the existence of an incident, release, or discharge, or an unmaintained storage tank system; or~~

(b) ~~Discovery as specified in the Petroleum Contamination Site Cleanup Criteria subsection 62-770.200(10), F.A.C.~~

(15)(14) “Dispenser” means a dispensing system that is used to transfer regulated substances ~~vehicular fuel~~ from a fixed point to a vehicle or portable container.

(15) “Dispenser liner” means ~~a liner installed as secondary containment beneath a dispenser to prevent~~

discharges of regulated substances.

(16) “Dispenser sump” means a storage tank system component installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(16) “Dispensing system” means equipment that is used to transfer regulated substances from integral piping through a rigid or flexible hose or pipe to another point of use outside of the storage tank system.

(17) “Double-walled” means a storage tank system or system component that has an outer tank wall, or integral piping that has an outer wall that provides secondary containment of the primary tank or piping.

(18) “DRF” means Discharge Report Form 62-761.900(1).

(19)(18) “Empty” means all regulated substances have been removed so that no more than one inch in depth or 0.3 percent by weight of total system capacity of regulated substances remains in the storage tank system.

(19) “Existing contamination” means:

(a) The presence of free product or sheen on the groundwater;

(b) The presence of vapor levels in monitoring wells measured in accordance with DEP’s “Guidelines for Vapor Monitoring” or by a Flame Ionization Detector or an equivalent instrument in excess of:

1. 500 parts per million total petroleum hydrocarbons for storage tank systems containing gasoline or equivalent petroleum products; or

2. 50 parts per million total petroleum hydrocarbons for storage tank systems containing kerosene, diesel or other equivalent petroleum products;

(c) Results of analytical tests on a groundwater sample that:

1. Exceed the cleanup target levels for petroleum products’ contaminants of concern specified in Table I of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

(d) After July 13, 1998, results of analytical tests on a soil sample that:

1. Exceed the lower of direct exposure residential and leachability based on groundwater criteria cleanup target levels for petroleum products’ contaminants of concern specified in Table II of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above.

(20) “Facility” means a nonresidential location containing, or that contained, any stationary tank or tanks containing, or that contained regulated substances, and that have, or had, individual capacities greater than 110 gallons for UST systems.

(20)(21) “Free product” means the presence of nonaqueous phase liquid in the environment a regulated substance in excess of 0.01 foot in thickness, measured at its thickest point, floating on water, surface water or groundwater.

(22) “Hazardous substances” means those substances defined as hazardous substances in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(23) “Heating oil” means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces.

(24) “High viscosity” means a pollutant with a viscosity of 30 centistokes (cSt) and higher at 40 degrees Centigrade.

(25) “Hydraulic lift tank” means a tank that holds hydraulic fluid for a closed loop mechanical system used to operate lifts, elevators, and other similar devices.

(21)(26) “Hydrostatic test” means a containment integrity test for a storage tank system or storage tank system component that is performed in accordance with this Chapter using equilibrium and the pressure of liquids to test the integrity of the tank or system component.

(22)(27) “Impervious” means:

(a) A synthetic material or another material registered in accordance with subsection 62-761.850(2), F.A.C., that is compatible with the stored regulated substance, and has a permeability rate to the regulated substance stored of 1×10^{-7} cm/sec or less; or,

(b) For concrete structures, a material that:

1. Meets the design and construction standards of ACI 350R-89 and ACI 224R-89; or

2. Is applied to the concrete in accordance with NACE International Standard RP0892-92.

~~(23)~~(28) “In contact with the soil” means any portion of a storage tank system, that physically touches the soil or, if not in direct contact with the soil, is separated from the soil only by a casing, wrapping, or other material that is not impervious. integral piping connected to USTs, or any portion of a tank, that:

(a) Physically touches the soil; or

(b) Is not in direct contact with the soil, and is separated from the soil only by a casing, wrapping, or other material that is not impervious.

(c) Those portions of integral piping that are elevated and that are not in direct contact with the soil are excluded from this definition.

~~(24)~~(29) “Incident” is a condition or situation indicating that a release or discharge may have occurred from a storage tank system or system component.

(25) “INF” means Incident Notification Form 62-761.900(6).

~~(26)~~(30) “In-service” means a storage tank system that is being actively maintained and operated, which contains greater than one inch or 0.3% by weight of regulated substance, is being actively maintained and operated in accordance with this Chapter. Non-compliance with any specific rule within this Chapter does not exclude the system from being considered “in service.” Subject to the above, a storage tank system is also considered to be in-service if it:

(a) Contains regulated substances or has regulated substances regularly added to or withdrawn from the system;

(b) Is emptied solely for the purpose of cleaning, routine maintenance, or a change in product, for a time period not exceeding 45 days; or

(c) Contains non-regulated substances and is still maintained in an in-service status at the request of the owner or operator.

~~(27)~~(31) “Integral piping” means on-site piping, originating or terminating at the regulated storage tank or tanks, that conveys regulated substances. Integral piping, not including vapor recovery lines and vent lines, includes all valves, elbows, joints, flanges, pumps, and flexible connectors, up to the:

(a) Union of the piping with the dispensing system;

(b) Fill cap or fill valve; or

(c) Forwarding pump used for transferring regulated substances to a flow-through process tank or an industrial production or manufacturing point of use; ~~or~~

~~(d) First flange or connection within the loading rack containment area.~~

~~(28)~~ “Integrity test” means a determination of the liquid tightness of a storage tank system or system component using one of the following types of tests:

(a) “Interstitial integrity test” means an evaluation of the interstitial space in a double-walled storage tank system or system component using vacuum, pressure, liquid level monitoring systems, or equivalent test methods certified by a Nationally Recognized Testing Laboratory; or

(b) “Primary integrity test” means an evaluation of the liquid tightness of the primary tank or integral piping.

(c) “Containment integrity test” means an evaluation of the liquid tightness of the hydrant pits, isolation valve pits, piping sumps, dispenser sumps, and spill containment systems.

~~(32)~~ “Internal lining” means a material that is applied internally on USTs to protect the tank from internal corrosion.

~~(29)~~ “Interstice” means the space between the primary and secondary wall of a storage tank system or system component.

~~(30)~~(33) “Interstitial monitoring” is a method of release detection in which the interstice is monitored. release detection method that is used to determine the presence of regulated substances or water between the primary and secondary containment. Interstitial monitoring can be performed within:

(a) A closed interstitial space between two steel or impervious barriers that are sealed, not open to the atmosphere, and designed to be tested for a breach of integrity of the interstitial space; or

(b) An open interstitial space between two steel or impervious barriers that are open to the atmosphere, and not designed to be tested for a breach of integrity of the interstitial space.

~~(34)~~ “Liner” means an impervious material that meets the performance standards of paragraph 62-761.500(1)(d), F.A.C., that is used externally as a method of secondary containment.

~~(31)~~(35) “Maintenance” means the normal operational upkeep in accordance with Rule 62-761.700, F.A.C., to prevent a storage tank system or system component from releasing or discharging regulated substances.

~~(32)~~(36) “Nationally Recognized Testing Laboratory” means an international or national organization or governmental entity that can perform quantitative and qualitative tests on storage tank system equipment, evaluate the test data and equipment performance, and make determinations of the equipment’s capability of meeting the technical requirements standards of this Chapter. A Nationally Recognized Testing Laboratory shall have at least five

years of professional storage tank system equipment testing experience. ~~Nationally Recognized Laboratories include organizations such as Underwriter's Laboratories, Carnegie Mellon Research Institute, Midwest Research Institute, Ken Wilcox Associates, Factory Mutual, and American Board of Engineering and Technology (ABET) Accredited Universities.~~

(33) "New" means a storage tank system or system component that is installed after the effective date of this Chapter.

~~(34)(37)~~ "On-site" means on the same or geographically contiguous property as the facility regulated under this Chapter, that is under the same ownership or control, and which may be divided by a public or private right-of-way or an easement.

(35) "Operability test" means a test performed to determine if electronic and mechanical release detection and overfill protection devices or systems are functioning as designed and in accordance with manufacturers specifications.

(38) "Operational life" refers to the period from the start of installation of the storage tank system to the completion of the closure of the storage tank system in accordance with subsection 62-761.800(2), F.A.C.

(39) "Operator" means any person operating a facility, whether by lease, contract, or other form of agreement.

~~(36)(40)~~ "Out-of-service" means a storage tank system **or system component** meeting the requirements in subsection 62-761.800(1), F.A.C. **and is designated as an out-of-service system by the owner or operator to the Department on Form 62-761.900(2), F.A.C. with notification in accordance with Rule 62-761.405(2), F.A.C.** that:

(a) Is designated as an out-of-service system by owner or operator notification to the Department on Form 62-761.900(2);

(b) Is empty as defined in subsection 62-761.200(18), F.A.C.; and

(c) Does not have regulated substances transferred into or withdrawn from the tank as specified in subsection 62-761.800(1), F.A.C., for a maximum time of:

1. Two years of being taken out of service for USTs; or

2. Ten years of being taken out of service for storage tank systems with secondary containment.

~~(37)(41)~~ "Overfill" is an incident a release or discharge that occurs when a tank is filled beyond its capacity.

(38) "Overfill protection" is a device or method for preventing an incident, release, or discharge from a storage tank during filling of the storage tank system.

(42) "Owner" means any person as defined in Section 376.301(23), F.S., owning a facility.

~~(39)(43)~~ "Pesticides" mean any substance or mixture of substances, as defined in 487.201, F.S., intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the Department of Agriculture and Consumer Services by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term "pesticide" does not include any article that:

(a) Is a "new animal drug" within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act;

(b) Has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or

(c) Is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection, means all preparations, products, and substances included in the Department of Agriculture and Consumer Services' Rule 5E-2.002, F.A.C.

(44) "Petroleum" includes:

(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and

(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph 62-761.200(44)(a), F.A.C.

(45) "Petroleum product" means any liquid fuel commodity made from petroleum.

(a) Forms of fuel considered to be petroleum products include all fuels known or sold as:

1. Diesel fuel;

2. Kerosene;

3. Gasoline; and

4. Fuels containing mixtures of gasoline and other products.

(b) Forms of fuel excluded from this definition are:

1. Liquefied petroleum gas;

2. American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils;

3. ~~Bunker C residual oils;~~

4. ~~Intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher;~~

5. ~~Asphalt oils; and~~

6. ~~Petrochemical feedstocks.~~

(40)(46) "Pipe" or "piping" means any hollow cylindrical or tubular conveyance through which regulated substances flow.

(41)(47) "Piping sump" or ~~"Submersible turbine pump sump"~~ means a storage tank system component liner installed as secondary containment or a monitoring port at the ~~top of a tank or~~ lowest point in the integral piping to detect releases.

(48) "Pollutants" includes any ~~"product" as defined in Section 377.19(11), F.S., pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.~~

(49) "Pressure test" means a test to determine the integrity of integral piping performed in accordance with subparagraph 62-761.640(5)(a)1., F.A.C.

(42)(50) "Pressurized piping" means piping through which regulated substances flow due to a pump that is not located at the dispensing system.

(43)(51) "Product" as defined in Section 377.19(11), F.S., means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, used oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(52) "Registered Precision Tank Tester" means ~~a contractor that performs tightness tests on USTs, and small diameter piping connected to USTs, that is registered by the Department of Business and Professional Regulation pursuant to Chapter 489, F.S.~~

(44) "Registration form" means Storage Tank Facility Registration Form 62-761.900(2).

(45)(53) "Regulated substance" means a liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), that is a pollutant or a hazardous substance, or any mixture of the two, when stored in a storage tank system UST.

(46)(54) "Release" means:

(a) ~~A discharge; or~~

(b) ~~a~~ a loss of regulated substances from a storage tank system or system component into the system's secondary containment.

(47)(55) "Release detection" means a method of:

(a) ~~Determining whether a discharge of regulated substances has occurred; or~~

(b) ~~d~~ Detecting the presence of regulated substances within a storage tank system's or system component's secondary containment; and/or detecting other conditions or situations indicative of a release or discharge.

(56) "Release detection response level" is the point of measurement, calculation, observation, or level that is established for each individual release detection device or method at which an investigation must be initiated to determine if an incident, release, or discharge has occurred.

(48)(57) "Repair" means to restore or replace any defective or damaged parts of a storage tank system or system component in accordance with Rule 62-761.700, F.A.C. ~~Replacement of a non-defective part is not a repair.~~

(49)(58) "Residential storage tank system" means a storage tank system that services a non-commercial building that is used exclusively as a dwelling unit which means a structure that is used as a home or residence by one or more persons who maintain a common household, excluding transient occupancies. is located on property used primarily for dwelling purposes, and the storage and use of regulated substances in the tank is for residential purposes.

(50)(59) "Secondary containment" means a release detection and discharge prevention system that meets the performance ~~requirements~~ standards of paragraph 62-761.500(1)(b), F.A.C., and includes dispenser sumps ~~liners~~, piping sumps, spill containment systems, the outer wall of double-walled tanks and integral piping, or the liner systems, or single-walled tanks or piping systems that are contained within a liner or an impervious containment area surrounding single-walled tanks or integral piping.

(51)(60) "Sheen" means a regulated substance less than or equal to 0.01 foot in thickness, measured at its thickest point, or visibly observed, floating on surface water, groundwater, or within secondary containment.

(61) "Significant loss or gain" means the sum of losses and gains of a regulated substance over a 30-day or monthly period that exceeds:

(a) For tanks with capacities between 111 and 2,000 gallons with an individual flow through less than 5,000

gallons during the previous 30 days:

1. One percent of the tank capacity; or
2. One percent of the total weekly output; or
3. Fifty gallons, whichever is greatest; or

(b) For tanks with capacities greater than 2000 gallons, or tanks with an individual flow through exceeding 5,000 gallons during the previous 30 days:

1. One percent of the tank capacity; or
2. One percent of the amount of product dispensed during the previous 30 days, plus 130 gallons, whichever is greatest.

(62) “Small diameter piping” means integral piping with an internal diameter of three inches or less that is utilized for transporting regulated substances.

(52) “Spill containment system” means a fixed component that is designed to prevent a discharge of regulated substances from the tank fill pipe.

(53)(63) “Storage tank system” means a tank used to contain regulated substances, its integral piping, and all its components, including dispensing systems, spill containment systems devices, overfill protection systems devices, secondary containment systems, and any associated release detection equipment. A storage tank system is a “storage system” as defined in Chapter 376.301, F.S.

(54) “Storage tank system component” or “system component” means any part of the tank system mechanical, electrical and plumbing that are essential for a tank system to operate properly and safely. This includes tanks, integral piping, sensors, sumps, pumps, including dispensing systems, spill containment systems, overfill protection systems, secondary containment systems, and any associated release detection equipment.

(55)(64) “Suction piping” means piping through which regulated substances flow due to a pump located at the dispensing system.

(56)(65) “Tank” means an enclosed stationary container or structure that is designed or used to store regulated substances, and the volume of which, including the volume of underground piping, is ten percent or more buried beneath the surface of the ground.

(66) “Tightness test” means a test for an underground storage tank or its small diameter piping that is performed in accordance with subparagraphs 62-761.640(3)(f)1. and (4)(b), F.A.C., by a precision tank tester registered with the Department of Business and Professional Regulation under Chapter 489, F.S.

(67) “UST” means an underground storage tank.

(68) “UST Category A system” means a system containing pollutants that was installed on or before June 30, 1992, or a system containing hazardous substances that was installed before January 1, 1991.

(69) “UST Category B system” means a system containing pollutants that was installed after June 30, 1992, or a system containing hazardous substances that was installed on or after January 1, 1991, and before July 13, 1998.

(70) “UST Category C system” means a system that was installed on or after July 13, 1998. USTs that are removed and relocated on or after July 13, 1998 are considered Category C systems.

(71) “Unmaintained” means:

- (a) A storage tank system that was not closed in accordance with Department rules; or
- (b) An out of service storage tank system that is not returned to in-service status within:

1. Two years of its being out of service for USTs; or
2. Ten years of its being out of service for storage tank systems with secondary containment.

(72) “Upgrade” means the addition or retrofit of cathodic protection, internal lining, spill prevention, overfill protection, or secondary containment, to a storage tank system, or the installation of single wall corrosion resistant storage tanks, to improve the ability of the storage tank system to prevent discharges of regulated substances.

(57) “Vapor Corrosion Inhibitor” (VCI) means a chemical substance that volatilizes from a liquid or solid through vapor pressure and then moves freely within an enclosed airspace where the molecules preferentially adsorb onto metal surfaces and create a protective layer that inhibits the corrosive action of water, oxygen, acid gas molecules, and other corrosive agents with the metal surfaces.

Retention of this language is important in defining vapor-corrosion inhibitor technology

(73) “Vehicular fuel” means a petroleum product used to fuel motor vehicles, including aircraft, watercraft, and vehicles used on and off roads and rails.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, 3-8-94, Formerly 17-761.200, Amended 9-30-96, 7-13-98, 6-21-04,_____.

Substantial rewording of Rule 62-761.210, F.A.C., follows. See Florida Administrative Code for present text.

62-761.210 Reference Requirements Standards.

(1) Referenced requirements are available for inspection at the County Offices, and the Department of Environmental Protection's District and Tallahassee Offices, and directly from the source.

(2) Titles of documents. References to documents listed in paragraphs 62-761.210(2)(a) through (k), F.A.C., below are made throughout this Chapter. Each document or part thereof is adopted and incorporated as a guideline only to the extent that it is specifically referenced in this Chapter. To the extent that the provisions contained in the following reference requirements conflict with this Chapter, the Department's requirements as stated in this Chapter shall control.

(a) American Petroleum Institute (API), 1220 L Street, N.W. Washington, D.C. 20005, (202) 682-8000, or at <http://www.api.org/>.

1. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996;

2. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011;

3. Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996; and

4. Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006.

(b) ASME International (founded as the American Society of Mechanical Engineers), 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800) 843-2763, or at <http://www.asme.org/>; Process Piping, B31.3-2004, 2012 Edition.

(c) NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, (800) 797-6223, or at <http://www.nace.org/>;

1. Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition; and

2. Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition.

(d) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (800) 344-3555, or at www.nfpa.org/;

1. Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition;

2. Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C), 2012 Edition; and

3. Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition.

(e) National Institute of Standards and Technology (NIST), NIST, 100 Bureau Drive, Stop 1070, Gaithersburg, MD 20899-1070, (301) 975-NIST (6478), or at <http://www.nist.gov/index.html>.

(f) National Leak Prevention Association (NLPA), Route 2 Box 106A, Falmouth, Kentucky 41040, (702) 832-2260, or at <http://www.nlpa-online.org/>; NLPA Standard 631, 1991.

(g) National Work Group On Leak Detection Evaluations (NWGLDE), <http://www.nwglde.org/>;

Again, no legal standing with this organization – Ad hoc.

(h) Petroleum Equipment Institute (PEI), Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918) 494-9696, or at www.pei.org/;

1. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition; and

2. Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition.

(i) Steel Tank Institute (STI), 944 Donata Court, Lake Zurich, Illinois 60047, (847) 438-8265, or at <https://www.steeltank.com/>;

1. sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013; and

2. Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006;

3. Cathodic Protection Testing Procedures for sti-P3® UST's, STI R051-06, (R051), Rev. January 2006;

4. Storage Tank Maintenance STI R111, (R111), Rev. July 2011;

5. Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, STI R972, Rev.

January 2006:

6. Standard for Dual Wall Underground Steel Storage Tanks, F841, Rev. January 2006;

7. Specification for External Corrosion Protection of FRP Composite Steel USTs - ACT-100[®], F894, Rev.

September 2011:

8. Permatank[®]: Specification for Permatank[®], F922, Rev. January 2013; and

9. Specification for External Corrosion Protection of Composite Steel USTs - ACT-100-U[®], F961, Rev.

September 2013:

(j) Underwriters Laboratories Standards (UL), 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847) 272-8800, or at www.ul.com/:

1. Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition;

2. Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition;

3. Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition; and

4. External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition.

5. Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems, UL 1856, 2013 Edition.

(k) U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001, (202) 512-1800, or at www.gpo.gov/:

1. Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST), Title 40, Part 280, July 2008; Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001; and

2. Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001.

(3) Applicability of Reference Requirements: Unless otherwise specified in this Chapter, facilities installed before *(the effective date of the rule)* are subject to the Reference Requirements listed in the Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities installed after *(the effective date of the rule)* shall comply with this subsection on or after *(the effective date of the rule)*.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 7-13-98, 6-21-04, _____.

62-761.300 Applicability.

(1) General Requirements:—

~~(a) Underground storage tank systems:~~ The requirements of this Chapter, unless specified otherwise, apply to owners and operators of facilities, ~~and owners and operators of underground storage tank UST systems with individual storage tank capacities greater than 110 gallons, that contain or contained regulated substances:—~~

1. ~~Vehicular fuel, subject to Chapter 17-61, F.A.C., after May 21, 1984;~~

2. ~~Pollutants or hazardous substances after December 10, 1990; or~~

3. ~~Regulated substances in unmaintained storage tank systems.~~

~~(b) This rule is applicable to non-residential facilities. Under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal UST rules (advisory information only not required by this Chapter).~~

(2) Exemptions: The following ~~underground systems~~ are exempt from the requirements of this Chapter:

(a) Any storage tank system storing any hazardous waste listed or identified under Subtitle C of the Resource Conservation and Recovery Act, or a mixture of such hazardous waste and other regulated substances;

(b) Any storage tank system regulated under the Toxic Substances Control Act (15 U.S.C. 2065);

(c) Any pesticide waste degradation system regulated under Chapter 62-660, F.A.C.;

(d) Storage tank systems used solely for temporary storage of mixtures of pesticides and diluent for reapplication as pesticides;

(e) Any storage tank system with a storage capacity of less than 30,000 gallons used for the sole purpose of storing heating oil for consumptive use on the premises where stored. "Heating oil" means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces;

~~(f) Any tank that contains asphalt or asphalt products not containing other regulated substances;~~

~~(g) Any storage tank system storing regulated substances that are solid or gaseous at standard temperature and pressure;~~

~~(h) Any storage tank containing Liquid Petroleum Gas;~~

(g)(i) Any storage tank system that:

1. Contains a regulated substance at a concentration of less than two percent for pollutants and below the reportable quantities for hazardous substances under 40 C.F.R. 302; and
2. Was never previously regulated under Chapter 376.30 through 376.309, F.S. or this Chapter; contains small quantities (de minimus, as per 40 C.F.R. Section 280.10(b)(5)) of regulated substances;

(h)(i) Any storage tank system that contains wastewater ~~treatment tank system~~ that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;

(i)(k) ~~Any septic tank system;~~

(j) Any stormwater or wastewater collection system, including oil-water separator tanks;

(m) ~~Any surface impoundment, pit, pond, or lagoon;~~

(j)(n) Any agricultural storage tank system of 550 gallons capacity or less that is used for agricultural purposes;

(k)(e) Any residential storage tank system used solely for residential purposes. However, under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal underground storage tank rules;

(l)(p) Any emergency spill or emergency overflow containment storage tank system that is emptied as soon as possible after use, and that routinely remains empty;

(q) ~~Any flow through process tank system. For industrial and manufacturing facilities, integral piping is considered to terminate at the forwarding pump or valve used to transfer regulated substances to process, production, or manufacturing points of use or systems within the facility;~~

(m)(r) Any storage tank system, liquid trap, or associated gathering lines directly related to oil or gas production and gathering operations regulated by Chapter 377, F.S.; however, this exclusion does not apply to storage tanks that contain refined products;

(n)(s) Any equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift or fluid tank systems that hold hydraulic fluid for closed-loop mechanical systems used to operate lifts, elevators, and other similar devices and dielectric fluid (cooling and lubricating oil) systems used for electrical equipment and electrical equipment tank systems;

(o)(t) Any pipeline, piping and “break-out” tanks directly connected to the pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration, pursuant to Title 49, Parts 190-199 of the Code of Federal Regulations facilities;

(p)(u) Any storage tank system containing radionuclides or that is part of an emergency generator system for nuclear power generation at facilities regulated by the Nuclear Regulatory Commission under 10 C.F.R. Part 50 Appendix A;

(q)(v) Any ~~v~~ Vapor recovery holding tanks and associated vapor recovery piping systems; or

(r) Any storage tank system containing biofuel that has a concentration of regulated substance of five percent or less by volume.

(w) Any rail or tanker truck loading or unloading operations (loading racks) specified in Chapter 5 of NFPA 30.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.300, Amended 7-13-98, 6-21-04, _____.

62-761.350 Operator Training and Certification (Reserved for Rulemaking)

62-761.400 Registration and Financial Responsibility.

(1) For installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction begins.

(b) A completed Form 62-761.900(2), Storage Tank Facility Registration Form (Registration Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the Department no later than 30 days prior to installation. Copies of the Registration Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(c) A completed Form 62-761.900(5), Underground Storage Tank System Installation and Removal Form for Certified Contractors (Certified Contractors Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the County no later than 21 days after installation of a storage tank system, storage tank or integral piping. Copies of the Certified Contractors Form are

available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or, www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(2) For change in service status or closure pursuant to Rule 62-761.800, F.A.C.:

(a) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days after completion of the change in service status.

(b) A completed Certified Contractors Form shall be submitted to the County in paper or electronic format no later than 10 days after removal of a storage tank system.

(3) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days of the following changes or discovery:

~~(3) Financial responsibility.~~

~~(a) Any change in the owner or operator of a facility or of a storage tank system.~~

~~(a) General requirements.~~

1. The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance. Financial responsibility is only required for tanks containing petroleum or petroleum products. Financial responsibility is the ability to pay for corrective action and third party liability resulting from a discharge at the facility.

2. The demonstration of financial responsibility shall be made by the owner or operator in accordance with C.F.R. Title 40, Part 280, Subpart H.

3. Financial responsibility requirements for petroleum storage systems containing petroleum products may be supplemented by participation in the Florida Petroleum Liability Restoration and Insurance Program to the extent provided by Section 376.3072, F.S.

4. Notwithstanding the owner's or operator's financial responsibility status, the owner or operator may, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.

(b) Any change or correction in the information reported in the Registration Form. A change within the same blend of regulated substances should not be reported (e.g., regular unleaded to premium unleaded gasoline);

~~(b) The minimum requirements for financial responsibility for USTs containing petroleum or petroleum products shall be the same as provided by C.F.R. Title 40, Part 280, Subpart H.~~

~~(c) A change from a regulated substance to a non-regulated substance; and~~

~~(d) The discovery of an unregistered storage tank system.~~

~~(1) General registration requirements.~~

(a) The owner or operator of any facility, or the owner or operator of a storage tank system shall register the storage tank system with the Department on Form 62-761.900(2).

(b) A completed registration form shall be submitted to the Department no later than 30 days after regulated or hazardous substances are put into any new storage tank system.

~~(4)(2) Registration fees.~~

(a) Registration fees are due from the tank or facility owner or operator, as indicated in this section, for all registered storage tank systems required to be registered. Registration fees ~~except~~ for storage tank systems that have been properly closed in accordance with subsection 62-761.800(2), F.A.C., will no longer be due once any outstanding fees have been paid.

(b) A registration fee of \$50.00 per tank ~~or vessel~~ shall be submitted for each initial registration of a storage tank system. The fee shall be paid within 30 days after receipt of an invoice by the Department.

(c) A renewal fee of \$25.00 per tank shall be paid to the Department for each storage tank system ~~not meeting the closure requirements of subsection 62-761.800(2), F.A.C.~~ by July 1 each year.

(d) A replacement fee of \$25.00 per tank shall be paid to the Department for each tank that is replaced ~~for the purpose of facility upgrading~~, within 30 days after receipt of an invoice by the Department.

(e) A late fee of \$20.00 per tank shall be paid to the Department for any renewal that is received after July 31.

(f) Upon receipt of payment of all applicable initial registration fees and annual renewal fees, each facility shall receive a valid registration placard, pursuant to Section 376.3077, F.S. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the storage tank system is located. Posted on the Department website will be information regarding those motor fuel facilities who have not timely paid their registration fees. Each facility shall receive a registration placard upon payment of all applicable fees. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the tank is located.

(5) Unless a current registration placard is displayed in plain view as required by paragraph 62-761.400(4)(f).

F.A.C., no motor fuel may be deposited into a storage tank required to be registered pursuant to this Rule. Facility owners, operators and suppliers are each responsible for compliance with this provision.

(6) Revocation of Registration Placard. *(Reserved for Rulemaking)*

(7) Delivery prohibitions. *(Reserved for Rulemaking)*

Rulemaking Specific Authority 376.303, 376.322(2) FS. Law Implemented 376.303, 376.309, 376.323, 376.3077 FS. History–New 12-10-90, Formerly 17-761.400, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.405 Notification.

(1) For Installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction will begin.

(b) Notification shall be received by the County in writing or electronic format between 30 and 45 days before installation of a storage tank system or system component unless the County agrees to a shorter time period.

(c) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the installation work to confirm the date and time of the scheduled activities.

(2) For change in service status and closure:

(a) Notification shall be received by the County in writing or electronic format between 10 and 25 days before the initiation of the work unless the County agrees to a shorter time period.

(b) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the initiation of the work to confirm the date and time of the scheduled activities.

(c) Closure Integrity Evaluation reports prepared in accordance with paragraph 62-761.800(3)(a), F.A.C., must be provided to the County with the notification of closure or change in service from a regulated substance to a non-regulated substance.

(3) Notification of the discovery of an incident shall be made to the County in writing or electronic format on Form 62-761.900(6), Incident Notification Form (INF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 72 hours or before the close of the county's next business day; however, an INF need not be submitted if, within 72 hours, of discovery, the investigation of the incident in accordance with Rule 62-761.430, F.A.C., confirms that a discharge did or did not occur. Copies of the INF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(4) Notification of the discovery of a discharge shall be made to the County in writing or electronic format on Form 62-761.900(1), Discharge Report Form (DRF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 24 hours or before the close of the County's next business day. Copies of the DRF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.450, 62-761.450, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.420 Financial Responsibility.

(1) Financial responsibility is the ability to pay for cleanup of a discharge and third-party liability resulting from a discharge of petroleum or petroleum product at the facility.

(2) The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department for all storage tank systems until they are properly closed. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance.

(3) The demonstration of financial responsibility for storage tank systems shall be made available for inspection by the Department or the County and shall be in accordance with Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST) – Financial Responsibility, Title 40, Part 280, Subpart H, July 2008, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, hereby adopted and incorporated by reference, and is available from the address given.

(4) Notwithstanding the owner's or operator's financial responsibility status, the owner and operator shall, in

accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.309 FS. History-New

62-761.430 Incidents.

(1) Incidents include:

(a) The following positive responses of release detection devices or methods described in Rule 62-761.600, F.A.C.:

1. Any visual inspection of any part of a storage tank system, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances that reveals pitting corrosion with more than a fifty percent loss of its original design thickness, or cracking, splitting, blistering, delamination, softening signs of corrosion, cracks, structural damage, leakage, or other similar problems with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C.;

2. Any visual observation of regulated substances in a piping or dispenser sump;

3. Any alarm that indicates that liquid, vacuum, or pressure monitoring levels are not being maintained, or that liquid, other than condensate, has been detected by a sensor in a normally dry interstice;

4. Any visual observation that indicates that liquid monitoring levels are not being maintained;

5. Any vacuum or pressure change of 50% from one month to the next, or any cumulative change of vacuum or pressure exceeding 50% of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge;

6. Any visual inspection that indicates the presence of groundwater or surface water, other than condensate, and/or regulated substances in the interstice;

7. Any instance where a mechanical line leak detector is restricting flow;

8. Any instance where an electronic line leak detector has shut off power to the pump;

9. Any instance where a monitoring device has shut off the pump; and

10. Liquid in excess of one inch in an out-of-service storage tank.

(b) A failed integrity test for the following components:

1. Double-walled storage tanks;

2. Double-walled integral piping;

3. Piping sumps;

4. Dispenser sumps; and

5. Spill containment systems.

(c) Other unusual operating conditions, such as the erratic behavior of product dispensing equipment, the sudden loss of product from a storage tank system, or any unexplained presence of groundwater or surface water in a tank or an interstitial space;

(d) The presence of odors of a regulated substance from surface water or groundwater, soil, basements, sewers and utility lines at a facility or in the surrounding area from which it could be reasonably concluded that a release or discharge may have occurred; and

(e) The loss of a regulated substance from a storage tank system, such as from an overflow, exceeding 25 gallons on impervious surfaces, other than secondary containment, provided that the loss does not come in contact with pervious surfaces.

(2) If an incident occurs at a facility, actions shall be taken within 24 hours of discovery to investigate the incident to determine if a discharge has occurred.

(3) Notification of the discovery of any incident shall be made to the County in writing or electronic format on an INF within 72 hours or before the close of the County's next business day. However, an INF is not required to be submitted if, within 72 hours of discovery, the investigation of the incident confirms that a discharge did or did not occur.

(4) In cases where an INF is required to be submitted, the investigation shall be completed within 14 days of the date of discovery of the incident to determine if a discharge has occurred. Incident investigations that require additional time can be extended with the written approval of the Department or the County. However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system shall be placed out-of-service until such time the investigation is completed and resolved.

(5) At the end of the 14 day time period, or at the end of the alternate time period approved by the Department or the County to investigate the incident, either a DRF or a written confirmation and explanation that the incident was not a discharge shall be submitted to the County in writing or electronic format.

(6) The removal of any spill or loss of regulated substance into secondary containment shall be initiated within three days of discovery, and completed within thirty days of discovery.

(7) If a discharge is discovered at any time during the incident investigation, the discharge shall be reported on a DRF within 24 hours of discovery, or before the close of the next business day, and a discharge response shall be initiated in accordance with subsection 62-761.440(6), F.A.C.

(8) All incidents, regardless of whether an INF is required to be submitted, shall be documented and records kept until storage tank system closure in accordance with Rule 62-761.710, F.A.C. Test results or reports, which support the investigation findings, shall be maintained as records.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History–New

62-761.440 Discharges.

(1) Discharges include:

(a) Laboratory analytical results of surface water or groundwater samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C.;

(b) Laboratory analytical results of soil samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C. that exceed the lower of direct exposure residential or leachability based on groundwater criteria cleanup target levels in Chapter 62-777, F.A.C.;

(c) The presence of free product, a visible sheen, sludge, or emulsion of a regulated substance, or a regulated substance that is visibly observed in soil, on or in surface water, in groundwater samples, on basement floors, in open drainage ditches, in open excavations or trenches, in subsurface utility conduits or vaults, or in sewer lines at the facility; and

(d) A spill or overflow of a regulated substance to a pervious surface.

(2) Upon discovery of a discharge, the owner or operator shall report the discharge to the County on a DRF within 24 hours or before the close of the County's next business day.

(3) Copies of laboratory analytical results that confirm a discharge shall be submitted to the County within 24 hours of receipt of the results or before the close of the next business day in writing or electronic format.

(4) A request for a retraction of a submitted DRF shall be submitted to the County or the Department in writing or electronic format if evidence is presented that a discharge did not occur at the facility.

(5) A DRF does not need to be submitted:

(a) For a discharge that was previously reported to the appropriate County on a DRF;

(b) For petroleum or petroleum product de minimis discharges in accordance with Rule 62-780.560, F.A.C., unless the regulated substance has a more stringent reporting requirement specified in the following document which is hereby adopted and incorporated by reference, and is available from the address given: Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001; or

(c) For non-petroleum de minimis discharges in accordance with Rule 62-780.550, F.A.C., unless the pollutant has a more stringent reporting requirement specified in Title 40, Part 302.

(6) Discharge response.

(a) When evidence of a discharge from a storage tank system is discovered, the following actions shall be taken:

1. Fire, explosion, and vapor hazards shall be identified and mitigated;

2. Actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules (e.g., Chapter 62-780, F.A.C., Contaminated Site Cleanup Criteria). Owners and operators are advised that other federal, state, or local requirements apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with Chapter 62-780, F.A.C.;

3. Each component of the storage tank system shall be integrity tested within three days of discovery of the discharge if the source and/or cause of the discharge is unknown;

4. The storage tank system component that is discharging shall be isolated from the system within three days of discovery of the discharge. If the component cannot be isolated from the system, within three days of discovery of the discharge the storage tank system shall not operate, dispense, or accept deliveries, or shall be placed out-of-service in accordance with Rule 62-761.800, F.A.C., until the component can be repaired or replaced;

5. If the storage tank system component that was found to be discharging will be repaired, it shall be repaired in accordance with Rule 62-761.700, F.A.C.;

6. If the storage tank system component that was found to be discharging will be replaced, it shall meet the storage tank system requirements in accordance with Rule 62-761.500, F.A.C.; and

7. If the storage tank system component that was found to be discharging will not be repaired or replaced, the storage tank system, if not already out-of-service, shall be placed out-of-service within 90 days or be closed in accordance with Rule 62-761.800, F.A.C.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History–New.

62-761.450 Notification and Reporting.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.450, Amended 9-30-96, 7-13-98, 6-21-04., Repealed.

Substantial rewording of Rule 62-761.500, F.A.C., follows. See Florida Administrative Code for present text.

62-761.500 Performance Standards for Category C Storage Tank Systems Requirements.

(1) General requirements.

(a) Wellhead Protection. Persons are advised that Chapter 62-521, F.A.C., contains restrictions regarding the location of storage tank systems within 500 feet of a potable water well.

(b) Secondary containment.

1. The materials used for secondary containment shall be:

a. Impervious to the regulated substance and able to withstand deterioration from external environmental conditions;

b. Non-corrosive or of corrosion-protected materials; and

c. Of sufficient thickness and strength to withstand hydrostatic forces at maximum capacity to prevent a discharge.

2. For cathodically protected tanks and integral piping, secondary containment systems shall not interfere with the operation of the cathodic protection system. For VCI protected tanks, the secondary containment system shall provide containment for the vapor corrosion inhibitors.

3. Secondary containment systems shall be designed and installed to direct any release to a monitoring point or points.

4. Containment and interstitial, as applicable, integrity tests shall be performed for all spill containment systems, piping sumps, hydrant sumps, and dispenser sumps before placing the components into initial use. The tests shall be in accordance with manufacturer's requirements. If a hydrostatic test is used, it shall be performed for at least:

a. Twenty-four hours for field-fabricated components; or

b. Three hours for factory-made components.

5. An interstitial integrity test shall be performed on the storage tank after it is delivered and installed at the facility and before the storage tank is placed into service. This test shall be performed in accordance with manufacturer's requirements or with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition, Petroleum Equipment Institute (PEI), Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380, and Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition, Petroleum Equipment Institute (PEI) Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380.

6. An interstitial integrity test shall be performed on integral piping in accordance with PEI/RP100-11 and PEI/RP1200-12 before the integral piping is placed into service.

7. If double-walled spill buckets or double-walled sumps are installed on the system, an interstitial integrity test shall be performed in accordance with PEI/RP1200-12 before the component is placed into service.

(c) Cathodic protection.

1. Test stations. Cathodic protection systems shall be designed, constructed, and installed with test stations in accordance with NACE standards contained in paragraph 62-761.210(2)(c), F.A.C. Cathodic protection test stations shall provide direct access to the soil in close proximity to each cathodically protected structure for placement of reference electrodes, and monitoring wires that connect directly to cathodically protected structures. Facilities where direct access to soil in close proximity to cathodically protected structures is present, and where electrical connections to cathodically protected structures can be conveniently accomplished, need not have separate dedicated cathodic protection test stations.

2. The cathodic protection system shall be operated and maintained in accordance with subsection 62-761.700(2), F.A.C.

3. Any field-installed cathodic protection system shall be designed and installed by or under the direction of a

Corrosion Professional.

4. Cathodic protection is not required for any underground storage tanks with field-fabricated internal secondary containment that is self-structural without any structural support from the host tank.

5. Supplemental anodes that are added to a sti-P3 tank can be installed according to STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs .

Won't be needed often, but applies to STI-P3 tanks.

(d) Corrosion Protection with Vapor Corrosion Inhibitors (VCI).

1. Testing locations for vapor corrosion inhibitors. Vapor Corrosion Inhibitor technologies registered with the Department in accordance with Rule 62-761.850(2), F.A.C., provide an alternative to cathodic protection for protection of metal surfaces within secondary containment installed in accordance with manufacturer's instructions.

2. Any field-installed VCI protection system shall be designed and installed by or under the direction of a Corrosion Professional and the VCI manufacturer's certified installer. The VCI protection system shall be operated and maintained in accordance with subsection 62-761.700(3), F.A.C.

(e) Compatibility. The primary and secondary walls of storage tank systems shall be made of, or internally lined with, materials that are compatible with the regulated substance stored in the storage tank systems and with substances or conditions present in the environment. All storage tank systems containing blends of ethanol, biodiesel, or other biofuels and additives shall be compatible with the regulated substances stored in the storage tank systems.

(f) All components of a storage tank system shall be installed in accordance with the manufacturer's instructions.

(g) All storage tank systems shall be installed in accordance with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070.; Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Process Piping, B31.3-2004, 2012 Edition, ASME International (founded as the American Society of Mechanical Engineers), Published by ASME, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900; and PEI/RP100-11. Storage tanks with field-fabricated internal secondary containment shall be installed in accordance with manufacturer's specifications, UL 1856, and NLPA 631, hereby adopted and incorporated by reference, and are available from the addresses given.

(h) A Certified Contractor shall perform the installation of storage tank systems containing pollutants, including tanks, integral piping (excluding drop tubes), overfill protection and spill containment equipment, internal release detection equipment, cathodic protection systems, secondary containment systems, and dispensing systems, if the installation of the storage tank system component disturbs the backfill, or where the integral piping is connected or disconnected during installation.

(i) Whenever storage tanks and/or integral piping are installed, ~~modified~~ or relocated after the effective date of this rule, Record Drawings ("as-builts"), signed and sealed by a professional engineer licensed in the state of Florida, shall be completed and maintained as a record in accordance with Rule 62-761.710, F.A.C. The as-built drawing shall include all construction and equipment design specifications including exact dimensions, geometry, and locations of the storage tanks and/or integral piping, of the work completed under contract, and any changes made to the original specifications during the construction process. **As-built drawings are not required for tanks that are installed or retrofitted with internal secondary containment.**

(2) Storage Tanks.

(a) All storage tanks at a facility shall have secondary containment and shall be constructed or installed to provide for interstitial monitoring of the entire storage tank.

(b) Fiberglass reinforced plastic double-walled tanks shall be constructed in accordance with the following document, Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference and available at the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(c) Cathodically protected double-walled steel tanks shall be:

1. Constructed in accordance with the following documents, or as applicable: Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, and External Corrosion Protection Systems for

Steel Underground Storage Tanks, UL 1746, 2007 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and are available from the addresses given;

2. Constructed in accordance with the following document, sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given ; or

3. Constructed in accordance with the following document, STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given; or

Won't be needed often, but applies to STI-P3 tanks.

3. Certified by a Nationally Recognized Testing Laboratory for any field-installed cathodic protection system, that these requirements are met, constructed and designed by a Corrosion Professional in accordance with the following document, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and is available from the address given.

(d) Double-walled steel tanks coated with a fiberglass reinforced plastic composite jacketed steel tanks shall be constructed in accordance with UL 58 and UL 1746, ACT-100® Specification for External Corrosion Protection of FRP Composite Steel USTs - F894, Rev. September 2011, Steel Tank Institute (STI), 944 Donata Court, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(e) Jacketed steel tanks shall be constructed in accordance with UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

Need to include this for jacketed tanks as defined by STI. EPA will be adopting this.

(e) Double-walled storage tanks that meet the above performance requirements, that are constructed of equivalent material, have an equivalent design, or are corrosion protected shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(f) Tanks shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(g) Double-walled storage tanks that have been removed and that are to be reinstalled at a different location shall:

1. Be recertified that all original warranties are confirmed by the original manufacturer or the manufacturer's successor, and be reinstalled in accordance with the requirements in this section; or

2. Be recertified by a professional engineer licensed in the state of Florida that the storage tank meets all applicable requirements of this section; and

3. Proof of recertification shall be provided to the Department and County prior to the start of installation. The storage tank shall be re-registered in accordance with subsection 62-761.400(1), F.A.C.

(3) Integral piping.

(a) All integral piping, including remote fill piping that is in contact with the soil shall have secondary containment; or

(b) All integral piping that transports regulated substances over surface waters of the state shall have secondary containment and shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials; or

(c) All integral piping that is not in contact with the soil shall meet the construction requirements in paragraphs 62-761.500(3)(d)2. through 4., F.A.C., shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials.

(d) Construction requirements.

1. Fiberglass reinforced plastic integral piping or other non-metallic double-walled integral piping installed in contact with the soil at a facility shall meet the requirements of Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.

2. Coated steel double-walled integral piping shall be constructed in accordance with ASME B31.3. In addition, steel integral piping in contact with the soil shall be cathodically protected in accordance with the following documents: Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API

Recommended Practice 1632 (2002), 3rd Edition, January 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070; Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906; and Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and available from the addresses given.

3. Metallic double-walled integral piping constructed of nonferrous materials such as copper shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, Piping Systems.

4. Integral double-walled piping constructed of other materials, design, or corrosion protection shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(e) Integral piping shall be installed with a slope to a low point monitoring system to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(f) Pressurized integral piping systems connected to dispensers shall be installed with shear valves or emergency shutoff valves in accordance with Section 6.3 of NFPA 30A, Requirements for Dispensing Devices. These valves shall be designed to close automatically if a dispenser is displaced from its normal position. The valves shall be rigidly anchored independently of the dispenser. The valves shall be tested in accordance with PEI/RP1200-12 at the time of installation by a certified contractor to confirm that the automatic closing function of the valve operates properly and that the valve is properly anchored.

(g) All storage tanks located at an elevation that produces a gravity head on the dispenser or on integral piping positioned below the product level in the storage tank must be installed and maintained with an isolation block valve in accordance with Chapter 22.13 of NFPA 30, Tank Openings Other Than Vents, and located as close as practical to the storage tank. In addition, anti-siphon valves for suction and pressurized systems with dispensers that are subject to NFPA 30A, shall be installed and maintained in accordance with Section 11.2 of NFPA 30A, Marine Fueling - Storage. Storage tank systems without dispensers shall be installed with valves that will prevent the tanks from emptying if there is a leak or break in the integral piping.

(h) Pressurized integral piping systems connected to dispensers shall be installed with a method of leak detection that can detect a leak within one hour, and can include a mechanical line-leak detector or an electronic line leak detector, or another device registered in accordance with Rule 62-761.850(2)F.A.C.

(Ought to be in this section as well as Section 600 to make it clear to owners and operators)

(i) Storage tank systems using corrosion protection systems with vapor corrosion inhibitors that are registered in accordance with Rule 62-762.851(2), F.A.C. shall be designed and installed under the direction of a Corrosion Professional and shall be installed with at least one electrical resistance probe test location or a method of monitoring to allow for a determination of the corrosion rate within the interstitial space or metallic surface within a contained area. The VCI system shall be designed and installed in accordance with the requirements specified in Rule 62-762.701(2), F.A.C.

(Allows the use of VCI's for interstitial corrosion protection)

(4) Spill containment systems.

(a) Storage tank systems shall be installed with a spill containment system at each tank fill connection meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C..

(b) Fillbox covers shall be marked or the fill connection tagged in accordance with Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, hereby adopted and incorporated by reference, and is available from the address given, or with an equivalent method approved by the Department in accordance with subsection 62-761.850(1), F.A.C.

(c) Spill containment systems, including double walled spill containment systems, shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. Double-wall spill containment systems are not required to perform interstitial integrity tests or monthly interstitial monitoring observations, and are considered single-wall spill buckets for the purpose of this rule.

(Note – double-wall spill buckets are not required by rule or statute. If an owner chooses to purchase double-wall spill containment, it makes sense to perform a test at installation in accordance with manufacturers specifications, but owners should not be punished with more

costs if they have double-wall spill buckets, so DEP should not require monthly interstitial monitoring or interstitial B.O.I.'s after installation unless an owner chooses to perform one instead of a hydrostatic test of the primary.)

(5) Dispensing systems and dispenser sumps.

(a) The dispensing system used for transferring fuels from storage tanks to vehicles or portable containers shall be installed and maintained in accordance with the provisions of NFPA 30 and Chapter 6, Fuel Dispensing Systems; Chapter 9, Operational Requirements; and Chapter 11, Marine Fueling of NFPA 30A.

(b) Dispensers shall be installed with a dispenser sump meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C. The dispenser sump shall extend beneath the union of the integral piping and the dispenser, including the shear valve, if applicable.

(c) Dispenser sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. The dispenser sump shall be capable of containing a release for the entire area beneath the dispenser.

(6) Piping sumps.

(a) Piping sumps shall meet the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and be registered in accordance with subsection 62-761.850(2), F.A.C. The sumps shall be designed, constructed, and installed to minimize water entering the sump.

(b) Piping sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(7) Overfill protection.

(a) Owners or operators shall ensure that the volume available in the storage tank is greater than the volume of regulated substances to be transferred to the storage tank before the transfer is made and shall ensure that any transfer is repeatedly monitored to prevent overfilling and spilling.

(b) Storage tank systems shall be equipped with an overfill device that:

1. Automatically shuts off flow to the storage tank when the storage tank is no more than 95% full;

2. Restricts flow to the storage tank when the storage tank is no more than 90% full and does not fill the storage tank beyond 95% capacity. Vent restriction devices such as ball float valves shall not be installed at facilities after *(the effective date of the rule)* unless the storage tank system meets the requirements of Section 7 of PEI/RP 100-11, UST Overfill Equipment Verification, Inspection and Testing; or

3. Alerts the transfer operator when the tank is no more than 90% full by triggering an alarm and does not fill the tank beyond 95% capacity.

(c) Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.

(d) Storage tank systems with capacities of 2000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser are exempt from overfill protection requirements provided that the tanks are never filled beyond 80% capacity.

(e) Overfill devices shall be registered in accordance with subsection 62-761.850(2), F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Amended 5-4-92, Formerly 17-761.500, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.510 Performance Standards for Category-A and Category-B Storage Tank Systems

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303-.3072 FS. History–New 12-10-90, Amended 5-4-92, Formerly 17-761.510, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.600 Release Detection Requirements Standards.

(1) General requirements.

(a) Storage tank systems shall have a method, or combination of methods, of release detection that:

1. Can detect a new release from any portion of the storage tank system;

(b) Any storage tank system without a method, or combination of methods, of release detection in accordance with this section, shall immediately provide a method of release detection, or immediately empty the storage tank system and place the affected system out-of-service, or close the system in accordance with subsection 62-761.800(2), F.A.C.

(c) Any component of a storage tank system with an interstice shall have a method of interstitial monitoring.

Interstitial monitoring can be performed with vacuum, pressure, hydrostatic (liquid-level sensing), sensors or probes, and visual release detection methods.

2. Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability to ensure that the device is functioning as designed; and

3. Meets the applicable performance standards in Rule 62-761.640, F.A.C. All manufacturer's instructions, and the performance claims and their manner of determination described in writing by the equipment manufacturer or installer shall be retained for as long as the storage tank system is used.

(b) A release detection response level shall be described in writing for each method or combination of methods of release detection used for a storage tank system.

(c) A release detection method shall be established and provided for all storage tank systems upon installation.

(d) Except as otherwise specified in this Rule Rules 62-761.600-.640, F.A.C., the release detection method or combination of methods used at a facility shall be performed at least once every a calendar month, but not exceeding 35 days, to determine if a release from the storage tank system has occurred.

(e) Visual inspections. At least once a month, but not exceeding 35 days, any component of a storage tank system that contains, transfers, or stores, or is designed to contain, transfer, or store pollutants that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of any component a storage tank, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances that reveals pitting corrosion with more than a fifty percent loss of its original design thickness, or cracking, splitting, blistering, delamination, softening, structural damage, leakage, or other similar problems with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C. is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. Repairs shall be made in accordance with Rule 62-761.700, F.A.C. A monthly visual inspection is not required for any system component using an electronic release detection method, but piping sumps must be visually inspected every sixthree months and records kept of the visual inspection. At least once a month, but not exceeding 35 days, any storage tank and component of a storage tank that can be inspected visually shall be visually inspected in accordance with paragraph 62-761.640(2)(e), F.A.C. A visual inspection is not required for any system component that has a continuous or monthly electronic release detection sensor. Continuous electronic leak detection devices shall be inspected for proper operation on a monthly basis. Inspection may consist of visual observation or remote verification of proper operation.

(f) Electronic and mechanical release detection devices shall be:

1. Installed, calibrated, operated and maintained in accordance with the manufacturer's instructions and shall be designed and installed to provide service checks for operability to ensure that the device is functioning in accordance with subsection 62-761.700(3), F.A.C.; and

2. Registered in accordance with subsection 62-761.850(2), F.A.C., except that controllers or annunciators that are used to display leak detection test results are not required to be registered. A site suitability determination shall be performed for UST systems by December 31, 1998, in accordance with paragraphs 62-761.640(2)(a)-(d), F.A.C., for storage tank systems using groundwater or vapor monitoring wells for release detection. If the site suitability determination indicates that on-site conditions are unsuitable for external monitoring, another method of release detection must be used.

(g) Electronic release detection devices shall be inspected for proper operation at least once every calendar month, but not exceeding 35 days. A record or summary of the alarm history, sensor status and testing results related to potential releases shall be printed from any electronic release detection device or be provided to the department through electronic documentation. If the release detection system is not capable of printing records, a manual log shall be maintained of the alarm history, sensor status and testing results. Vapor monitoring plans shall be performed by December 31, 1998, for UST systems, in accordance with paragraph 62-761.640(2)(d), F.A.C., for storage tank systems using vapor monitoring for release detection.

(h) Release detection shall be constructed and installed so that groundwater, rainfall, or soil moisture will not render the release detection method used inoperable. Any component of a storage tank system with secondary containment shall have an interstitial monitoring method meeting the requirements of paragraph 62-761.640(3)(a), F.A.C.

(i) Storage tank systems that store fuel solely for use by emergency power generators shall comply with the release detection requirements of Rule 62-761.600, F.A.C., within 90 days of the effective date of the Rule. Pressurized piping, excluding bulk product piping, shall be equipped with a line leak detector that meets the standards of paragraph 62-761.640(4)(a), F.A.C. Gravity piping systems are exempt from this requirement.

(2) Storage Tanks.

(a) One or more of the following release detection methods shall be used:

1. Liquid level monitoring systems with electronic hydrostatic sensors. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid levels can not be maintained. Any alarm that indicates that liquid levels are not being maintained is considered a positive response.

The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Vacuum monitoring. This method shall be able to detect incidents by determining changes in vacuum levels within the interstice by continuous monitoring of vacuum levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if vacuum levels can not be maintained. Any alarm that indicates that vacuum levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

3. Pressure monitoring. This method shall be able to detect incidents by using an inert gas and determining changes in pressure levels within the interstice by continuous monitoring of pressure levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if pressure levels can not be maintained. Any alarm that indicates that pressure levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

4. Electronic sensors in a normally dry interstice. This method shall be able to detect the presence of liquid in the interstice or monitoring low point and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid is detected. Any alarm that indicates the presence of liquid, **other than condensate**, is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

5. Visually inspected liquid level monitoring systems. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir. Any visual observation that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

6. Visually inspected vacuum or pressure monitoring with gauges. This method shall be able to detect incidents by determining changes in vacuum or pressure levels within the interstice.

a. Vacuum or pressure readings shall be able to detect a **50%** change from one month to the next, or any cumulative change of vacuum or pressure exceeding **50%** of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge. Vacuum or pressure refreshment must be performed in accordance with manufacturer's specifications and the system's equipment registration in subsection 62-761.850(2), F.A.C. Any change indicated above is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

b. Liquid-filled gauges shall be calibrated using NIST traceable standards prior to initial operation, **hereby adopted and incorporated by reference, and available at the address given**. The gauges shall be operational at all times.

7. Visual monitoring of normally dry interstices. This method shall be able to detect the presence of liquid at a low point of the interstice. Any presence of **groundwater or surface** water, and/or regulated substances in the interstice is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

8. Visual monitoring of liners. This method shall be able to detect the presence of liquid at a low point of the liner. The accumulation of water or condensation in the low point of the liner shall not interfere with the ability to detect regulated substances. Any **evidence of petroleum-stained containment surfaces, free product, or leaking of regulated substances from any part of a storage tank system secondary containment presence of regulated substances** in the liner is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(If left unchanged, the "any presence" requirement could be interpreted by inspectors as a slight sheen from a couple of drops of fuel released when a fuel filter was changed. It would create incidents at nearly every facility in Florida)

(3) Integral piping with secondary containment.

(a) One or more of the release detection methods in subsection 62-761.600(2), F.A.C., shall be used.

(b) In addition, pressurized small diameter integral piping in contact with the soil shall be equipped with a release detection system that can detect a leak within one hour. One of the following methods shall be used:

1. Mechanical line leak detectors. Mechanical line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and restrict flow within one hour. Any instance where the mechanical line leak detector is restricting flow is

considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Electronic line leak detectors. Electronic line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and shut off power to the pump. Any instance where the electronic line leak detector has shut off power to the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. **Monthly release detection printed tapes from automatic tank gauges for electronic line leak detectors are not required to be kept as records to demonstrate compliance, but a positive response from an electronic line leak detector must be recorded and investigated in accordance with Rule 62-761.430, F.A.C.**

(Makes it clear that owners and operators of electronic line leak detectors are not punished for having a more effective and environmentally friendly method of piping release detection than owners with mechanical line-leak detectors that are not as effective.)

3. Electronic interstitial monitoring devices. Storage tank systems without line leak detectors, shall have electronic interstitial monitoring devices that are capable of detecting a release of ten gallons within one hour and shutting off the pump. Any instance where the monitoring device has shut off the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(4) Annual operability testing of release detection systems. All release detection devices shall be tested annually at intervals not exceeding 12 months to ensure proper operation. The test must either simulate an actual alarm condition or shall be conducted according to manufacturer's specifications, and shall include, at a minimum, a determination of whether the device operates as designed. Remote testing of the system can be performed by the manufacturer if the remote test is included in the third party certification by a Nationally Recognized Testing Laboratory.

(5) Records shall be kept for **three** years in accordance with Rule 62-761.710, F.A.C.

(j) Any storage tank system not provided with a method, or combination of methods, of release detection in accordance with this section, shall be closed in accordance with subsection 62-761.800(2), F.A.C., by the date upon which release detection is to be provided.

(k) Groundwater and vapor monitoring wells meeting the standards for external monitoring specified in paragraphs 62-761.640(2)(a) (d), F.A.C., that are no longer used for release detection, shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 2010. Wells not meeting these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are:

1. Used for contamination assessment purposes as specified in paragraph 62-761.600(2)(d), F.A.C.; or
2. Required by rules adopted by a County government in accordance with Section 376.317, F.S.

(2) By December 10, 1990, vehicular fuel petroleum storage tank systems of greater than 550 gallon capacity shall be provided with release detection. Release detection for all other storage tank and integral piping systems in contact with the soil shall be provided by December 31 of the year shown in Table RD.

TABLE RD

Year Storage Tank System Installed	Year Release	Detection Required		
Before 1970 or unknown	P/RD	1991	1992	1993
1970-1974	P	RD		
1975-1979	P		RD	
1980-1990	P			RD

P = Installation of Release Detection for Pressurized Piping

RD = Installation of Release Detection for Tanks and Suction Piping.

(3) Effective December 31 of the applicable year specified under the schedule in Table RD, any groundwater monitoring plan or spill prevention control and countermeasure plan implemented before December 22, 1990, shall be capable of detecting the leak rate or quantity specified in paragraph 62-761.640(1)(a), F.A.C.

(4) UST systems that store fuel solely for use by emergency power generators are not required to comply with the release detection standards of Rules 62-761.600 through 62-761.640, F.A.C.

(5) Monitoring wells shall meet the standards of subsection 62-761.640(2), F.A.C., by December 31, 1998. Wells that do not meet these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by

December 31, 1998, unless the wells are required by a rule that was adopted by a County government in accordance with Section 376.317, F.S. However, if a monitoring well is used solely for the purpose of monitoring petroleum contamination in accordance with Chapter 62-770, F.A.C., the well does not have to be closed until the completion of the site rehabilitation pursuant to Chapter 62-770, F.A.C. Covers of leak detection monitoring wells redesignated as site assessment wells by the facility owner or operator shall be colored black with a white circle within the black background. The diameter of the white circle shall be approximately one half the diameter of the manhole cover, or approximately four inches.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.3072 FS. History–New 12-10-90, Formerly 17-761.600, Amended 7-13-98, 6-21-04, _____.

62-761.610 Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.610, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.640 Performance Standards for Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.640, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

Substantial rewording of Rule 62-761.700, F.A.C., follows. See Florida Administrative Code for present text.

62-761.700 Repairs, Operation and Maintenance of Storage Tank Systems.

(1) Repairs.

(a) Repairs shall be performed, as necessary, if any component of a storage tank system has:

1. A release or contributed to a release of a regulated substance; or
2. An operational or structural problem that could potentially result in a release, or lead to the presence of groundwater or surface water in the interstice of a double-walled storage tank or integral piping.

(b) The storage tank system shall immediately cease operating, dispensing, and/or accepting deliveries, if:

1. Repairs are required for any component of a storage tank system; and
2. The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shut down of electrical generating units serviced by the storage tank system.

(c) Repairs shall be made:

1. To restore the structural integrity of the storage tank system and in a manner that will prevent releases or discharges from structural failure or corrosion for the remaining operational life of the storage tank system; and
2. In accordance with manufacturer's specifications and applicable reference requirements.

(d) If repairs are needed for any primary or secondary tank or piping system walls, or any interstitial spaces of storage tank system components, the repaired components shall be integrity tested for liquid tightness before being placed back into operation.

(2) Cathodic and corrosion protection.

(a) Cathodic and corrosion protection systems shall be operated and maintained to provide continuous corrosion protection to the metal components of those portions of the storage tank and integral piping in contact with the soil or within interstitial spaces using vapor corrosion inhibitor technologies.

(Recommend adding this for a potential use of vci's. Otherwise, it would limit the use to components in contact with the soil.)

(b) Inspection and testing requirements.

1. Storage tank systems equipped with cathodic protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year, or every three years for factory-installed (galvanic) cathodic protection systems, thereafter in accordance with the criteria contained in NACE International Standards SP0169-2007 and SP0285-2011, or STI R051-06 Cathodic Protection Testing Procedures for sti-P3® UST's (R051), as applicable, hereby adopted and incorporated by reference, and available at the address given. All cathodic protection systems shall either have permanent test stations for soil-to-structure potential measurements or use temporary field test stations for required testing in accordance with this subparagraph.

2. Storage tank systems with impressed current systems shall be inspected at intervals not exceeding two months. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 1440 hours in one year shall be immediately taken out-of-service and within 30 days, and assessed by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria.

(c) Records of the continuous operation of impressed current systems and all cathodic protection inspection, testing, and repair activities shall be maintained in accordance with paragraph 62-761.710(3)(c), F.A.C.

(d) Storage tank systems with cathodic protection systems that have been determined by a Corrosion Professional that the cathodic protection system cannot achieve or maintain protection levels in accordance with the design criteria shall:

1. Be repaired within 90 days in accordance with subparagraph 62-761.700(2)(b)1., F.A.C., or

2. Be closed in accordance with subsection 62-761.800(2), F.A.C.

(e) Vapor Corrosion Inhibitors

1. Vapor Corrosion Inhibitor systems shall be operated and maintained to provide continuous corrosion protection to the metal surfaces within the interstitial spaces of storage tanks and piping. Vapor Corrosion Inhibitors can also be used for corrosion control for the ullage of USTs or other enclosed spaces.

2. Inspection and testing requirements.

a. Storage tank systems equipped with VCI protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year thereafter. All VCI protection systems shall have permanent test stations with at least one electrical resistance probe to measure corrosion rates, or a method of monitoring to allow for a determination of VCI effectiveness and to monitor current operating status of the VCI protection system. If the data from the electrical resistance probes or from an alternate method or source of data evaluated by a Corrosion Professional indicate that the vapor corrosion inhibitors have been depleted and can no longer provide the design capacity to protect the targeted metallic surfaces for the designed time period, the Corrosion Professional shall direct the replenishment or replacement of the depleted vapor corrosion inhibitors.

b. Systems using vapor corrosion inhibitor technology must be tested in accordance with manufacturers instructions.

3. Records of the continuous operation of VCI systems and all inspection, testing, and repair activities shall be maintained in accordance with subsection 62-761.710(3), F.A.C.

4. Storage tank systems with VCI protection systems that have been determined by a Corrosion Professional that the VCI system requires replenishing shall:

a. Be replenished or replaced within 90 days in and be retested within 90 days from the date of replenishment; or

b. Be closed in accordance with subsection 62-761.800(2), F.A.C.

(3) Operation and maintenance.

(a) Integrity testing.

1. The integrity of secondary containment systems and interstitial spaces shall be verified by performing an interstitial or containment integrity test in accordance with manufacturer's specifications or PEI/RP1200-12. Secondary containment systems that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection are exempt from this requirement. The interstitial or containment integrity tests shall be performed in accordance with the following schedule:

a. Double-walled storage tanks shall be tested at the time of installation or repair;

b. The interstice of double-walled integral piping within five years of (the effective date of the rule), and every five years thereafter;

c. Below-grade piping sumps within five years of (the effective date of the rule), and every five years thereafter;

d. Below-grade dispenser sumps within five years of (the effective date of the rule), and every five years thereafter;

e. Double walled spill containment systems within five years of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter; *(Recommend that they be treated as single-wall systems. Otherwise, owners will remove them and install single-wall)*

f. Single-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter; and

g. Single-walled storage tanks or integral piping installed within liners are exempt from this requirement.

2. If using hydrostatic testing for the interstitial or containment integrity test, it shall be performed by filling the secondary containment system with water to a marked level four inches above the highest penetration of the side wall of the containment equipment, with the exception of spill containment systems which shall be filled to a level within 1.5 inches of the top of the bucket. The secondary containment system shall be deemed tight if the water level remains stationary for a three hour period.

3. Any integrity test that indicates that the component is not tight shall be reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(b) Water removal.

1. Spill containment systems, interstitial spaces, dispenser sumps, and piping sumps shall be maintained to provide access for examination and water removal. Water in excess of one inch in depth, or any regulated substance collected in secondary containment, spill containment systems, or in piping sumps and dispenser sumps shall be removed within 72 hours of discovery and be either reused or properly disposed.

2. Petroleum Contact Water. Petroleum contact water from storage tank systems shall be managed in accordance with Chapter 62-740, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 3-12-91, Formerly 17-761.700, Amended 9-30-96, 7-13-98, 6-21-04.

62-761.710 Recordkeeping.

(1) All records shall be dated, maintained in permanent form, and available for inspection by the Department or County. If records are not kept at the facility, they shall be made available at the facility or another agreed upon location upon five working days of receipt of the Department's request notice. Site access to the facility shall be provided for compliance inspections conducted at reasonable times.

(2) Records of the following are required to be kept for three two years:

(a) Measurements and reconciliations of inventory, as applicable;

(b) Repair, operation, and maintenance records;

(c) All release detection results, including electronic test results, regardless of the frequency, and monthly visual inspections performed in accordance with paragraph 62-761.600(1)(e) 62-761.640(2)(e), F.A.C. The presence of a regulated substance's odor, sheen, or free product shall be recorded for each sampling event;

(d) All test data and results gathered during annual operability tests and integrity tests Release detection response level descriptions;

(e) A copy of all test data and results gathered during tightness tests, pressure tests, and breach of integrity tests, and the name and type of the test approved under Rule 62-761.850, F.A.C.;

(f) Certification of Financial Responsibility on Form 62-761.900(3);

(g) Records of the types of fuels stored per tank; and

(h) Records to demonstrate financial responsibility shall be maintained until storage tank system closure.

(i) The repair or replacement of gaskets, valve packings, valves, flanges, and connection/disconnection fittings for bulk product piping if the repair or replacement is performed in response to a discharge or loss of regulated substances.

(3) Records of the following, generated after July 13, 1998, shall be maintained until for the life of the storage tank system closure:

(a) Manufacturer's instructions for operation, maintenance, and testing for release detection equipment Results of internal inspections and non-destructive testing;

(b) Any performance claims for release detection equipment described in writing by the equipment manufacturer or installer;

(c) Records of storage tank system installations, replacements, recertifications, and upgrades;

(d) Records of installation, maintenance, inspections, and testing of cathodic protection systems in accordance with NACE and STI standards;

(e) Records of installation, maintenance, inspections, and testing of vapor corrosion inhibitor protection systems in accordance with Corrosion Professional recommendations;

(f) Record drawings ("as-builts") as specified in paragraph 62-761.500(1)(i), F.A.C. Site suitability determinations in accordance with subsection 62-761.640(2), F.A.C.;

(g) A copy of all INFs, and the results of all incident investigations as specified in Rule 62-761.430, F.A.C. Vapor monitoring plans and all records kept pursuant to the plan;

(h) A copy of all DRFs Closure assessment reports if the location continues as a facility; and

(i) A copy of all Closure Report Forms, if the location continues as a facility Verification from a Certified Contractor of the existence of a single check valve beneath the suction pump for suction piping systems.

~~(4). Records to demonstrate financial responsibility shall be maintained until storage tank system closure.~~

Rulemaking Specific Authority 376.303, 376.322(3) FS. Law Implemented 376.303, 376.322 FS. History--New 12-10-90, Formerly 17-761.710, Amended 9-30-96, 7-13-98, Repromulgated 6-21-04, _____.

62-761.800 Out-of-Service and Closure Requirements.

(1) Out-of-service storage tank systems.

(a) General.

1. Storage tank systems that are taken out-of-service, as required in this subsection as defined in subsection 62-761.200(40), F.A.C., shall continue to be maintained in accordance with this Chapter unless otherwise noted herein.:

2. Facility owners and operators of out-of-service storage tank systems shall:

a. Continue to operate and maintain corrosion protection in accordance with subsection paragraph 62-761.700(2)(4)(b), F.A.C.;

b. ~~Perform external release detection for sites without contamination, as applicable, every six months in accordance with provisions of subsection 62-761.640(2), F.A.C.;~~

c. Leave vent lines open and functioning;

d. Remove all regulated substances so that no more than one inch in depth or 0.3 percent by weight of regulated substances remains in the storage tank ~~Empty the system and cap or secure all lines, pumps, manways, and ancillary equipment, as applicable; and~~

e. Secure or close off the system to outside access.

3. ~~Facility owners and operators of out-of-service storage tank systems shall monitor the interstice and the liquid level in the storage tank annually but not to exceed 12 months. Records of these inspections shall be maintained in accordance with subsection 62-761.710(2), F.A.C. In the event that liquid in excess of one inch, or 0.3% by weight, in the storage tank or any liquid other than condensate in the interstice is discovered, facility owners and operators must follow the procedures for suspected incidents pursuant to Rule 62-761.430, F.A.C. If the storage tank system is required to be upgraded during the time that it is out of service, it shall be upgraded or replaced in accordance with this chapter before it is returned to service.~~

4. Release detection device annual operability testing, containment and interstitial integrity testing, and annual overfill protection device testing are not required while the system is properly out-of-service. All afore-mentioned testing shall be up-to-date in accordance with this Chapter and indicate proper operation before adding regulated substances to the storage tank system. In addition, storage tank systems installed after the effective date of the rule that have been out-of-service for more than 730 days shall perform interstitial integrity testing of the storage tank and integral piping before adding regulated substances to the storage tank system. Systems with secondary containment installed and operated in accordance with this chapter may remain in a continuous out-of-service status for ten years. After this period, the system shall be returned to service or closed in accordance with subsection 62-761.800(2), F.A.C.

5. Storage tank systems with secondary containment shall only be designated as out-of-service for a maximum of ten continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with subsection 62-761.800(2), F.A.C. Tightness, pressure, or other tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., as applicable, on any systems being returned to service.

(b) ~~Before being returned to service, the following tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., for systems that are taken out of service for more than 180 days:~~

1. ~~A tightness test for single-walled systems; or~~

2. ~~A breach of integrity test for double-walled Category C systems.~~

(c) ~~Single-walled systems that are taken out of service shall not be kept out of service longer than two years for corrosion-protected systems or one year for unprotected bare steel systems. After the end of these time periods, the systems shall either be upgraded or permanently closed.~~

(2) Closure of storage tank systems.

(a) The following storage tank systems must be closed within 90 days in accordance with the provisions of this subsection: General.

1. A storage tank system that is out-of-service or has not had regulated substances added to or withdrawn from the system for more than ~~Closure of storage tank systems shall be performed by:~~

a. Two years for single-walled storage tank systems; or ~~Removing all liquids and accumulated sludges;~~

b. Ten years for storage tank systems with secondary containment. ~~Disconnecting and capping, or removing, all integral piping. Manways shall be secured to prevent access;~~

c. ~~Closing the storage tank system in accordance with paragraphs 62-761.800(2)(b), F.A.C., as applicable; and~~

d. ~~Conducting a closure assessment in accordance with subsection 62-761.800(3), F.A.C.~~

2 2. ~~A storage tank system that fails to meet the requirements of Rule 62-761.500, F.A.C. After closure, storage~~
4 ~~tank systems may be used to store materials or substances other than regulated substances in accordance with all~~
4 ~~applicable Department reference standards, (for example, API 1604). Owners and operators are advised that other~~
6 ~~federal, state, or local requirements may apply to these activities.~~

6 3. ~~A storage tank system that requires repair pursuant to Rule 62-761.700, F.A.C., but cannot be repaired to~~
8 ~~operate in accordance with the requirements of this Chapter shall be taken out-of-service. If it cannot be repaired~~
8 ~~within 365 days after being taken out-of-service, it shall be permanently closed. Monitoring wells associated with~~
10 ~~closed systems that are not being used for release detection or site assessment purposes shall be closed in accordance~~
10 ~~with paragraph 62-761.600(1)(k), F.A.C.~~

12 (b) ~~Closure of storage tank systems shall be performed by: Unmaintained systems shall be permanently closed~~
12 ~~within 90 days of discovery.~~

14 (c) ~~System removal, closure in place, and disposal shall be performed:~~

14 1. ~~Properly closing monitoring wells associated with closed systems that are not being used for site~~
16 ~~assessment purposes; In accordance with API RP 1604 and NFPA 30; and~~

16 2. ~~Removing or disconnecting and capping all integral piping; By a Certified Contractor if the system is~~
18 ~~removed from the ground, unless it is closed in place by filling it with a solid inert material of sufficient density to~~
18 ~~prevent a structural collapse of the closed system.~~

20 3. ~~Removing and disposing of a storage tank by a Certified Contractor, or in-place closure by filling the~~
22 ~~storage tank with a solid inert material of sufficient density to prevent a structural collapse of the closed storage~~
22 ~~tank, which shall be in accordance with the following documents hereby adopted and incorporated by reference, and~~
24 ~~available from the addresses given. Closure of Underground Petroleum Storage Tanks, API Recommended Practice~~
24 ~~1604, 3rd Edition, March 1996, American Petroleum Institute, Published by API Publications and Distribution,~~
26 ~~1220 L Street, N.W. Washington, D.C. 20005-4070, and Temporarily Out of Service, Closure in Place, or Closure~~
26 ~~by Removal of Underground Storage Tanks, NFPA 30 (Annex C). In lieu of in-place closure or removal, a storage~~
28 ~~tank may be used to store liquids other than regulated substances in accordance with API RP 1604. Owners and~~
28 ~~operators are advised that other federal, state, or local requirements apply that regulate these activities; and~~

30 4. ~~Conducting a Closure Integrity Evaluation as defined in subsection 62-761.200(8), and completing Closure~~
30 ~~Report Form 62-761.900(7), hereby adopted and incorporated by reference and available from the Department of~~
32 ~~Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida~~
32 ~~32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000###~~
34 ~~or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>, in accordance with subsection 62-761.800(3),~~
34 ~~F.A.C.~~

36 (c) ~~The removal and disposal of all liquids and accumulated sludges may be required according to other local,~~
36 ~~state, and federal requirements.~~

38 (3) ~~Closure Integrity Evaluation and Closure Report Form Requirements Closure assessment of storage tank~~
38 ~~systems.~~

40 (a) ~~Closure Integrity Evaluation. At time of closure, replacement, installation of secondary containment, or~~
40 ~~change in service from a regulated substance to a non-regulated substance, an assessment shall be performed to~~
42 ~~determine if a discharge from the system or system components has occurred.~~

42 1. ~~A Closure Integrity Evaluation as defined in subsection 62-761.200(8), F.A.C., must be performed no more~~
44 ~~than 45 days prior to closure, replacement, or change in service from a regulated substance to a non-regulated~~
44 ~~substance for all double-walled storage tanks, double-walled integral piping, piping sumps, dispenser sumps, and~~
46 ~~spill containment systems that are in contact with the soil. If a Site Rehabilitation Completion Order (SRCO) or a~~
46 ~~Monitoring Only Plan (MOP) Approval Order has been issued by the Department for a contaminated area of a site, a~~
48 ~~closure assessment shall be performed for any subsequent storage tank system removal, replacement, or installation~~
48 ~~of secondary containment.~~

50 2. ~~A Closure Integrity Evaluation requires a visual assessment of the interstitial space of double-walled tanks,~~
50 ~~integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil to~~
52 ~~determine if there are any products or pollutants or any water other than condensate present within the~~
52 ~~interstice. Other methods approved by the manufacturer or the Department such as vacuum, pressure, or inert gases~~
54 ~~may be used instead of visual observations. Tanks, pipes, or other system components in contact with soil at any~~
54 ~~site are subject to closure assessment requirements.~~

56 3. ~~A Closure Integrity Evaluation for single-walled piping sumps, dispenser sumps, and spill containment~~
56 ~~systems that are in contact with the soil requires a hydrostatic test or another test approved by the manufacturer.~~

56 4. ~~A failed Closure Integrity Evaluation requires the reporting of the failed evaluation as an incident in~~
56 ~~accordance with subsection 62-761.405(3), F.A.C.~~

5. The County must be provided with a copy of the Closure Integrity Evaluation report as part of the notification process pursuant to subsection 62-761.405(2), F.A.C.

(b) Closure Report Form. A Closure Report Form is always required and shall be completed at the time of closure, replacement, or change in service from a regulated substance to a non-regulated substance, and shall be submitted in writing or electronic format to the County within 60 days of completion of any of the activities listed in paragraph 62-761.800(3)(a), F.A.C. A closure assessment is not required for:

1. Sites with documented contamination requiring a site assessment in accordance with Chapter 62-770, F.A.C., including those that are eligible for the Early Detection Incentive Program (EDI), the Florida Petroleum Liability and Restoration Insurance Program (FPLRIP), and the Petroleum Cleanup Participation Program (PCPP), pursuant to Sections 376.3071 and 376.3072, F.S. Nevertheless, documentation of procedures followed and results obtained during closure shall be reported in a Limited Closure Summary Report, Form 62-761.900(8), and in accordance with Section A of DEP's "Storage Tank System Closure Assessment Requirements";

2. Systems initially installed with secondary containment, provided that no unexplained positive response of an interstitial release detection device or method occurred during the operational life of the system, or the secondary containment passed a breach of integrity test prior to closure; and

3. Systems upgraded with secondary containment that have closed interstitial spaces, where a closure assessment was performed prior to installation of secondary containment, provided that the secondary containment passed a breach of integrity test in accordance with paragraph 62-761.640(3)(a), F.A.C.;

(c) Closure assessment sampling and analysis shall be conducted according to DEP's "Storage Tank System Closure Assessment Requirements."

(d) A closure assessment report shall be submitted to the County within 60 days of completion of any of the activities listed in paragraph 62-761.800(3)(a), F.A.C. The report shall include sample types, sample locations and measurement methods, a site map, methods of maintaining quality assurance and quality control, and any analytical results obtained during the assessment in accordance with DEP's "Storage Tank System Closure Assessment Requirements."

(e) Persons are advised that contaminated soil excavated, disposed of, or stockpiled on site during the closure of a storage tank system is regulated by Chapter 62-770, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.30716 FS. History—New 12-10-90, Formerly 17-761.800, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.820 Incident and Discharge Response.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.820, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.850 Alternative Procedures Requirements and Equipment Registration Approvals.

(1) Alternative procedure requirements.

(a) Any person subject to the provisions of this Chapter may request in writing a determination by the Secretary or the Secretary's designee that any requirement of this Chapter shall not apply to a regulated storage tank system at a facility, and shall request approval of alternative alternate procedures or requirements.

(b) On Form 62-761.900(4), Alternative Requirement or Procedure Form, effective date, *(the effective date of the rule)*, hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>, the request shall set forth at a minimum the following information:

1. The specific storage tank system or facility for which an exception is sought;
2. The specific provisions of this Chapter 62-761, F.A.C., from which an exception is sought;
3. The basis for the exception;
4. The alternative procedure or requirement for which approval is sought;
5. Documentation that demonstrates that the alternative procedure or requirement provides an equivalent or greater degree of protection for the lands, surface waters or groundwaters of the State as the specific provisions of this Chapter from which an alternative procedure is sought established requirement; and
6. Documentation that demonstrates that the alternative procedure or requirement is at least as effective as the established procedure or requirement.
7. If an alternative alternate procedure or requirement is not able to be sought under subparagraph 5. or 6.,

then documentation that demonstrates that the specific provisions of this Chapter from which the exception is sought imposes regulatory costs on the regulated entity that could be reduced through approval of a less costly regulatory alternative or requirement that provides a substantially equivalent degree of protection for the lands, surface waters, or groundwaters of the State as the established requirement.

(c) The Department shall issue an Order within 90 days of the receipt of a completed Alternative Requirement or Procedure Form, either: Within 60 days of the receipt of a request for approval of an alternative procedure or requirement, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(1), F.A.C., are met.

1. Approving the request with any conditions necessary to meet the requirements of paragraph 62-761.850(1)(b), F.A.C.; or

2. Denying the request and stating the reason(s) the request does not make an adequate demonstration that the requirements of paragraph 62-761.850(1)(b), F.A.C., have been met.

(d) The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S. The Secretary or the Secretary's designee shall specify by order each alternative procedure or requirement approved for an individual storage tank system or facility in accordance with this rule or shall issue an order denying the request for such approval.

(e) The provisions of this Rule do not preclude the use of any other applicable relief provisions.

(2) Registration of storage tank system equipment and release detection systems and methods ~~Equipment~~ approvals.

(a) Owners and operators shall verify at the time of installation that the storage tank system equipment and release detection systems and methods (including equipment and methods that were previously approved by the Department under the former Equipment Approval process) have been registered with the Department. Storage tank system equipment used in the State of Florida must have the approval of the Department before installation or use, with the exception of:

(b) Any storage tank system equipment installed after (the effective date of the rule) must be registered with the Department in accordance with this section. Upon discovery, non-registered storage system equipment installed after (the effective date of the rule) must be removed within 90 days, unless registration is obtained and listed within the 90 day time period.

(c) Equipment previously approved by the Department under the former Equipment Approval process and installed prior to (the effective date of the rule) can continue to be used regardless of later non-renewal or removal of registration from the list of registered storage tank system equipment, provided the equipment is still operating as designed.

(d) Only the storage tank system equipment as stated in this Chapter shall be registered by the equipment manufacturer using Form 62-761.900(3) Storage Tank System Equipment Registration Form, effective date, (the effective date of the rule), hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>. The following storage tank system equipment is exempt from registration:

1. Dispensers, dispenser islands, nozzles, and hoses;
2. ~~Monitoring well bailers;~~
3. Manhole and fillbox covers;
34. Valves and ball float valves;
45. Cathodic protection test stations;
6. ~~Metallic bulk product piping;~~
57. Small diameter integral piping not in contact with soil, unless the integral piping extends over or into surface waters; and
68. Vent lines; and
7. Gauges used for vacuum monitoring.

(e)(b) Registration ~~Equipment approval~~ requests shall be submitted to the Department in writing or electronic format with a demonstration that the equipment will ~~provide equivalent protection or~~ meet the appropriate performance requirements ~~standards~~ contained in this Chapter. Any approvals or denials received from other states or countries shall be included in the registration approval request to the Department.

(f)(e) A third-party demonstration by a Nationally Recognized Testing Laboratory shall be submitted in writing or electronic format to the Department with the application. The third-party demonstration shall provide:

1. A technical evaluation of the equipment;
2. Test results that verify that the equipment will function as designed; and

3. A professional certification or determination that the equipment meets the performance requirements ~~standards~~ contained in this Chapter; Rule 62-761.500, F.A.C.

4. Integrity test requirements and procedures; and

5. Annual operability testing procedure for the equipment or release detection system or method.

(g)(d) Release detection methods and tank and piping tightness and pressure testing methods must be registered in accordance with this subsection and be listed with the National Work Group On Leak Detection Evaluations, <http://www.nwglde.org/>, prior to being used, hereby adopted and incorporated by reference, and available at the address given.

(Recommend deletion. This is an Ad hoc group with no legal authority. What will the DEP do when the NWGLDE funding is cut?)

Within 60 days of the receipt of a request for an equipment approval, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(2), F.A.C., are met.

(h)(e) The storage tank system equipment and release detection systems and methods registered with the Department under this subsection must be renewed every five years. Failure to renew will result in removal from the equipment registration list. Any changes, improvements, or modifications to equipment beyond the scope of the original demonstration by the Nationally Recognized Testing Laboratory will require a renewal of the registration and a new demonstration from a Nationally Recognized Testing Laboratory pursuant to paragraph 62-761.850(2)(f), F.A.C. The Secretary or the Secretary's designee shall specify by order each equipment approval that is approved in accordance with this rule or shall issue an order denying the request for such approval. The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S.

(i) The Department shall place conditions upon the use of the storage tank system equipment and release detection systems and methods, remove equipment or methods from the list of registered storage tank system equipment, or not renew registration based on the information submitted to the Department in accordance with this subsection or if the equipment does not perform in field application as certified in the third party certification by a Nationally Recognized Testing Laboratory.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.850, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.900 Storage Tank Forms.

The forms used by the Department in the Storage Tank System Program are adopted and incorporated by reference in this section. The forms are listed by form rule number, ~~which is also the form number, and with the subject title,~~ and effective date. Copies of forms are available ~~may be obtained~~ by writing to the Administrator, Storage Tank Regulation Section, Florida Department of Environmental Protection, Division of Waste Management, 2600 Blair Stone Road, M.S. 4500 4525, Tallahassee, Florida 32399-2400, or at or online at: www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(1) Form 62-761.900(1) Discharge Report Form, *(the effective date of the rule) July 13, 1998.*

(2) Form 62-761.900(2) Storage Tank Facility Registration Form, *(the effective date of the rule) July 13, 1998.*

(3) Form 62-761.900(3) Storage Tank System Equipment Registration Form, *(the effective date of the rule) Certification of Financial Responsibility, July 13, 1998.*

(4) Form 62-761.900(4) Alternative Requirement or Procedure Form, *(the effective date of the rule) July 13, 1998.*

(5) Form 62-761.900(5) Underground Storage Tank Installation and Removal Form for Certified Contractors, *(the effective date of the rule) July 13, 1998.*

(6) Form 62-761.900(6) Incident Notification Form, *(the effective date of the rule) July 13, 1998.*

(7) Form 62-761.900(7) Closure Report Form, *(the effective date of the rule) Monthly Statistical Inventory Reconciliation (SIR) Report, July 13, 1998.*

(8) Limited Closure Summary Report Form, July 13, 1998.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.900, Amended 9-30-96, 7-13-98, Repromulgated 6-21-04, _____.

Hopping Green & Sams

Attorneys and Counselors

August 7, 2014

By Electronic Mail

William E. Burns, Jr.
Environmental Administrator
Compliance Assistance
Division of Waste Management
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: Chapter 62-761, F.A.C. (Underground Storage Tank Systems);
July 24, 2014, Rule Draft

Dear Bill:

On behalf of the Florida Electric Power Coordinating Group, Inc. Environmental Committee (FCG) and Florida Power & Light Company (FPL), I am submitting this letter for the purpose of providing written comments in regard to proposed rule amendments to Chapter 62-761, Florida Administrative Code (F.A.C.), that were the subject of a Florida Department of Environmental Protection (FDEP or Department) rule development workshop on July 24, 2014. The FCG is a not-for-profit association of twenty-eight (28) investor-owned, municipally-owned, and cooperatively-owned electric utilities engaged in the business of providing the majority of electric power to the public in the State of Florida. FPL is the largest electric utility in Florida and one of the largest rate-regulated utilities in the United States. FPL generates power from 15 power plants and delivers it by way of 69,350 miles of power lines to approximately 4.5 million customers in about half the State of Florida. FCG member electric utilities and FPL own and operate underground storage tank systems (USTs) and undertake activities which are subject to the provisions of Chapter 62-761, F.A.C.

The FCG's and FPL's joint written comments concerning the agency draft rule amendments are provided below and, where appropriate, reference page and line numbers in the FDEP July 24, 2014, rule draft that was made available through FDEP's website and at the July 24, 2014, rule development workshop. The FCG and FPL hope that to the extent FDEP agrees to incorporate these comments, such comments are included in the next version of the rule draft that the agency develops.

General Comments

In response to previous FCG and FPL comments, FDEP developed “grandfathering” language in Rule 62-761.300 in the July 24, 2014, rule draft that provides that any new regulatory requirements found in the “Reference Requirements” section of the rule chapter (i.e., Rule 62-761.210) apply only to storage tank systems installed after the effective date of the proposed rule amendments. The agency’s draft rule language “grandfathers” those tank systems installed after June 30, 1992, and before the effective date of the proposed rule amendments. As discussed during the July 24 rule development workshop, the FCG and FPL believe that this language is drafted too narrowly and does not take into account USTs installed prior to 1992 (which exist in FPL’s system for example) and other requirements (e.g., recordkeeping) for which “grandfathering” is needed for existing UST systems. As a result, the FCG and FPL believe that the “grandfathering” language provided below may be a more effective way to address this issue. Where the agency wishes to apply operational, maintenance, and other requirements to existing systems, it should expressly state as much in rule language in other sections of the rule chapter. The FCG and FPL suggest the following:

This chapter has been substantially amended several times since it was first promulgated. Except as otherwise specifically provided herein, a storage tank system installed, upgraded, or relocated prior to the [effective date of current proposed rule amendments] remains subject to the provisions which were in effect at the time the storage tank system was installed, upgraded, or relocated.

Specific Comments – Chapter 62-761, F.A.C.

1. Rule 62-761.200; page 1, line 43 – page 8, line 10. Throughout this section of the rule, FDEP is deleting terms currently defined in the rule chapter which also appear in Florida Statutes. The FCG and FPL believe that these statutory definitions should be retained to further assist the regulated community by eliminating the need to refer to additional sources in determining the meaning of terms used throughout the rule chapter. Maintaining these terms in the “Definitions” section of the rule chapter will promote better understanding of the rule and ultimately better compliance with rule provisions.

2. Rule 62-761.200(26); page 4, lines 48-50. In a prior comment, the FCG and FPL sought clarification as to whether the term "liquid level monitoring" includes "stick testing" that is employed to check for liquid in the interstitial test tube. During the workshop, FDEP staff stated that "stick testing" is only implemented at closure of a double-walled UST. It was reiterated that interstitial integrity testing while the system is in service needs to be conducted pursuant to a method certified by a Nationally Recognized Testing Laboratory. The FCG and FPL seek FDEP clarification as to whether "stick testing" is a certified method.
3. Rule 62-761.200(33); page 5, lines 21-22. The FCG and FPL believe that the proposed term "new" in the rule draft may not fully address prospective application of new rule requirements and could be confusing. In this regard, the FCG and FPL refer FDEP to the "grandfathering" language suggested in the FCG's and FPL's general comments.
4. Rule 62-761.300(2)(); page 10, lines 16-17. As provided in their July 18, 2014, written comments, the FCG and FPL maintain that the current exemption for storage tank systems storing pollutants that are solid or gaseous at standard temperatures and pressures should be retained in this section of the rule.
5. Rule 62-761.200(2)(n); page 10, lines 34-35. The FCG and FPL suggest inserting the phrase "including those associated with electric power generation systems" after the word "system" on line 34. This suggested change clarifies that emergency spill/overflow storage tank systems associated with electric power generation systems are expressly included in this exemption. By way of example, these types of USTs typically serve combustion turbines at power plants. During a false-start of a combustion turbine engine, diesel fuel is diverted to its respective UST by design because the unspent fuel needs to be captured as a result of the false-start. These tanks are not intended for long-term storage of fuel for delivery to power generation systems.
6. Rule 62-761.300(2)(q); page 10, lines 36-38. The FCG and FPL appreciate FDEP's reinsertion in the July 24 draft of current rule language exempting flow-through process tank systems from regulation under this rule chapter. The FCG and FPL believe that further clarification of this exemption would be helpful by inserting an additional sentence to read: "Piping used to return unused regulated substances from the process, production, or manufacturing point of use back to the storage tank system is considered to be part of the flow-through process tank system;" after the word "facility" on line 38. These "return lines" are typical for most fuel delivery systems and FDEP staff has historically viewed this piping as part of a flow-through process tank system. This suggested change merely clarifies agency intent. FCG and FPL suggest that similar

clarification should be made to the definition of "integral piping" on page 4, lines 43-44 (Rule 62-761.200(25)) by adding the phrase "or other" after the word "vapor" on line 38.

7. Rule 62-761.400(1)(b); page 11, lines 11-16. The FCG and FPL suggest that the submittal of the initial storage tank registration form continue to be required no later than 30 days after regulated substances are first placed in the storage tank. The FCG and FPL are concerned that accurate registration information may not be available prior to adding regulated substances into the tank. Additionally, the FCG and FPL could not identify statutory language in Chapter 376, F.S. that requires this change.

8. Rule 62-761.405(4); page 12, line 54, page 13, line 4. As discussed during the recent rule workshop, the FCG and FPL recommend that the phrase "Except as provided in Rule 62-761.440(5)," be inserted before the word "Notification" on line 54. This suggested change clarifies agency intent.

9. Rule 62-761.430(1)(a)1.; page 13, lines 36-40. In Rule 62-761.430(1), F.A.C., incident notification requirements for corrosion or other structural damage that indicate a discharge may have or will likely occur from a UST have been further modified by FDEP since the June 25, 2014, workshop. The FCG and FPL believe that the agency's new language is a step backwards and that the rule language contained in the FDEP June 17 draft should be reinserted and modified as suggested by FCG and FPL in their July 18, 2014, written comments.

10. Rule 62-761.440(1)(d), page 14, line 50. The FCG and FPL suggest that the phrase "except as provided in Rule 62-761.440(5), F.A.C." be inserted after the word "surface." This suggested change clarifies agency intent.

11. Rule 62-761.500(1)(h); page 17, lines 6-12. The FCG and FPL do not believe that Record Drawings ("as-builts") for storage tanks or integral piping installed or relocated after the effective date of the rule amendments need to be signed and sealed by a Florida licensed professional engineer. This is unduly burdensome and adds unnecessary additional cost to storage tank system installation or relocation.

12. Rule 62-761.500(3)(g); page 18, lines 45-51. Draft rule language regarding the need to add certain types of valves for storage tank systems and integral piping that produce a gravity head on the dispenser or on small diameter piping needs to be revised to recognize the use of such valves in industrial and other applications. Significant agency consideration should be given to whether such valves should be used in situations where such tank systems provide fuel to emergency generators for hospitals, power plants, and other important infrastructure and related services.

13. Rule 62-761.600(1)(e); page 20, lines 15-26. Consistent with a prior comment, incident notification requirements for corrosion or other structural damage that indicate a discharge may have or will likely occur from the UST have been further modified by FDEP since the June 17, 2014, workshop draft. The FCG and FPL believe that the agency's new language is a step backwards and that the rule language contained in the FDEP June 17 draft should be reinserted and modified as suggested by FCG and FPL in their July 18, 2014, written comments.

14. Rule 62-761.700(3)(a)1.b.; page 24, lines 16-17. The FCG and FPL do not believe it is necessary to require integrity testing for double-walled integral piping every 5 years. Indeed, integrity testing may actually cause leaks in double-walled integral piping that otherwise would not occur.

15. Rule 62-761.710(2)(e); page 25, between lines 8-9. As stated during the rule development workshop, the FCG and FPL maintain that it is unnecessary to retain all historical financial responsibility records until storage tank system closure for those owners/operators who "self-insure." For those owners/operators that "self-insure", financial responsibility is required to be updated on an annual basis and the FCG and FPL believe that only the most recent 3 years of financial assurance information should be required to be maintained. In that regard, FCG and FPL propose the following rule language:

- (e) Records to demonstrate financial responsibility where the owner or operator has demonstrated financial responsibility in accordance with 40 C.F.R. Sections 280.95 or 280.96.

Consistent with the immediately preceding comment, the FCG and FPL suggest the following language be inserted on lines 25-27 in lieu of the agency's current draft language:

- (i) Except as provided in Rule 62-761.710(2)(e), F.A.C., records to demonstrate financial responsibility shall be maintained until storage tank closure if no contamination has been reported or if no site rehabilitation completion order (SRCO) has been issued pursuant to 62-780, F.A.C.

16. Rule 62-761.800(1)(a)3.; page 25, lines 50-56. The FCG and FPL believe that it is unnecessary for interstice monitoring or liquid level monitoring to occur while a tank is out of service. Out of service storage tanks are required to remove all product prior to being placed out of service. Empty storage tank systems pose little threat to the environment and therefore should not be required to conduct any monitoring.

17. Rule 62-761.800(2)(a)2.; page 26, lines 24-25. As discussed during the December 2013 rule workshop, the draft language requiring that a storage tank system that fails to meet the requirements of Rule 62-761.500, F.A.C. must be closed is overly broad and could be misinterpreted by County program inspectors. To address this concern, the FCG and FPL recommend the language be deleted in its entirety.

18. Rule 62-761.800(3)(a)5.; page 27, lines 32-37. The FCG and FPL note that in the July 24 workshop draft FDEP proposes that a Closure Integrity Evaluation Report be provided to the County as part of required advance pre-closure notification. As discussed during the rule workshop, FCG and FPL suggest that FDEP develop a form or template for such a report so that the regulated community can better understand FDEP's regulatory expectations for this report. Such a form could also assist FDEP in having consistent reliable information from such reports for USTs across the state.

The FCG and FPL very much appreciate the consideration that FDEP gives its comments and comments of the regulated community. After you have reviewed these comments, should you have any questions, please do not hesitate to contact me at (850) 425-2254.

Sincerely,

Hopping Green & Sams

By: 
Michael P. Petrovich

Attorneys for the Florida Electric Power
Coordinating Group, Inc., Environmental
Committee

and

Florida Power & Light Company

Bill Burns
August 7, 2014
Page 7 of 7

cc: Rebecca Robinette, Esq., FDEP
FCG Solid Waste Subcommittee
Mark Jones, Florida Power & Light Company
Pat Maher, Florida Power & Light Company
Eric Hamilton, Florida Petroleum Council
Marshall Mott-Smith, Mott-Smith Consulting Group

Curran, Kimberley

From: Curran, Kimberley
Sent: Friday, August 08, 2014 9:58 AM
To: 'Dale Calhoun'
Cc: Burns, Bill
Subject: RE: Comments to 62-762 and 62-761 Rule drafts ["Liquefied" Corrected]

Mr. Calhoun,

I've made the correction regarding the spelling for both rules to reflect "Liquefied Petroleum Gas."

Thank you for the clarification.

Kim

Kim Curran

**Environmental Specialist III
Florida Department of Environmental Protection
Compliance Assistance Program
Tallahassee, Florida 32399-2400
Office 850.245.8849**

From: Burns, Bill
Sent: Wednesday, August 06, 2014 8:15 PM
To: 'Dale Calhoun'
Cc: Curran, Kimberley
Subject: RE: Comments to 62-762 and 62-761 Rule drafts

Mr. Calhoun:

Thank you for your comments on our Petroleum Storage Tank Rules. We will address this issue in the next iteration of the rules.

William E. Burns, Jr.
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Please consider the environment before printing this email.

From: Dale Calhoun [<mailto:dale@floridagas.org>]
Sent: Wednesday, August 06, 2014 9:22 AM
To: Burns, Bill
Subject: Comments to 62-762 and 62-761 Rule drafts

Bill,

In reading the two drafts you are working on for 62-761 and 62-762 F.A.C there is an area of consistency I would like to address in the applicability section for both rules. In 62-761.300 it states that "Liquid Petroleum Gas" is exempt and it should read the same as the applicability in 62-762.301 to read that "Liquefied Petroleum Gas" is exempt. Thank you for your time and if there are any questions please feel free to contact me.

Regards,

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August 7, 2014
DELIVERY BY ELECTRONIC MAIL

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Bill.Burns@dep.state.fl.us
Bureau Chief
Bureau of Petroleum Storage Systems
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Re: July 24, 2014 UST Rule Workshop Draft
Chapter 62-761 Florida Administrative Code

Dear Bill:

On behalf of our client, the Florida Petroleum Marketers and Convenience Store Association, Inc. ("FPMA"), we are pleased to provide these comments concerning the latest draft of proposed changes to Chapter 62-761, Florida Administrative Code. These comments are intended to supplement the comments we provided on behalf of FPMA at the July 24, 2014 Rulemaking Workshop. We appreciate the Department's continued efforts in this matter, and FPMA looks forward to working with you through the successful completion of the rulemaking process.

62-761.100 Intent.

(3) site access. While FPMA does not wish to limit the Department's right to site access as provided by law, the rule should recognize that upon reasonable notice, the facility owner will provide trained personnel to unlock equipment and demonstrate operational functionality. As you know, facilities may have only one employee on duty for security, safety, and customer convenience. That employee may not be able to provide immediate assistance to the inspector. The same comment holds true for the availability of records, which may not be kept on site.

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62-761.200 Definitions.

(24) “In service” – In reviewing the amended definition and reconsidering our comments at the Rulemaking Workshop, we believe that it alleviates our concern that the rule should allow a completely empty tank (e.g., for maintenance purposes) to be considered “in-service” because it has not been designated by the owner or operator as out-of-service. We appreciate your consideration in resolving this issue.

(49) “Residential storage tank system” – We are still concerned that the rule would regulate storage tanks associated with residential uses, but not the building itself. We would suggest adding: Storage tanks that service ancillary uses on property with a “residential storage tank system” are also “residential storage tank systems.”

(54) “Storage tank system component” or “system component” – The word “essential” on page 7, line 39 may be incorrect. Perhaps the phrase “intended to allow” is suited to replace the word “essential.”

62-761.300 Applicability.

General requirements. The June 30, 1992 “grandfather” provision on page 9, line 51 should be extended to tanks that were installed meeting the June 30, 1992 standards (and before the effective date of the rule), regardless of the date of installation. In addition, we would add the following: Owners and operators shall be required to meet the recordkeeping and retention requirements of Rule 62-761.710 that were in effect at the time the record was no longer required to be maintained.

- (1) Exemptions. Given that the Department does not intend to regulate “day tanks,” perhaps “day tanks” should be listed as exempt or added into the definition of operational tanks in subsection (p).

62-761.405 Notification.

FPMA has suggested that the Department retain central repositories of Discharge Report Forms and Incident Notification Forms, at least at the District level, and preferably in Tallahassee. The information will be extremely helpful in determining the success of these rules and in illustrating the need for any legislation, rule changes and equipment registrations. We appreciate the Department’s continued efforts in developing this procedure.

62-761.420 Financial Responsibility.

We believe there is still some confusion over who may demonstrate financial responsibility and who must demonstrate financial responsibility. The problem here is that Section 376.309(1), Florida Statutes (“owner of a facility”), was enacted in 1984. In 1999, Congress enacted RCRA Subtitle I, which requires the “owner” (of a UST) or “operator” (of a UST) to demonstrate financial responsibility. 42 U.S.C. sections 6991(3) and (4); 6991b(d). Since then, insurance has been available to tank owners and operators and may have been made available to facility owners and operators. We therefore suggest that subsection (2) state as follows: The owner or operator of a facility may, and the owner or operator of individual tanks, if of different ownership, shall demonstrate... The second sentence of this subsection, which begins on page 13, line 14, is a correct statement of the federal law.

62-761.430 Incidents. (See also 62-761.600(1)(e))

On page 13, line 37, at a minimum, the “visual” signs that are enumerated should be limited to pitting, cracking, splitting, blistering and delamination that affect the structural integrity of the system.

62-761.440 Discharges.

While the shift in focus from closure assessments to closure integrity evaluations is helpful in perhaps alleviating our concerns, we believe there is still an issue with respect to closures at program-eligible sites. The most obvious example is a program-eligible site where a closure integrity evaluation indicates that no release has occurred. In the course of system removal, regulated substance is “visually observed in soil” (i.e., staining). Under Rule 62-761.440(1)(c), Florida Administrative Code, there is now a “discharge.” We note that the provision allowing for documentation showing that the contamination is the “manifestation of a previously reported release” is tied to “incidents,” not “discharges.” The rule still needs to contain a presumption that a discharge has not occurred if the closure integrity evaluation indicates that no release has occurred.

62-761.500 Storage Tank Systems Requirements.

- (1) General requirements.

- (h) We are not sure that the preparation of “as-built” drawings constitutes “engineering” under section 471.005(7), Florida Statutes. Therefore, the Department may not have the authority to require site owners to incur the expense of a professional engineer to provide “as-builts” for a system installed by a petroleum storage system specialty contractor.
- (4) Spill containment systems.
- (c) We believe that there may still be performance issues with double-walled spill buckets. Under the draft rule, a double-walled spill bucket must provide interstitial monitoring. If there are problems with the interstitial space or one of the walls, the system no longer performs as required. However, if the equipment registration indicates that one or both of the viable walls meets design, construction and compatibility requirements, there is no reasonable basis for not allowing the spill bucket to operate as a single-walled spill bucket.

62-761.600 Release Detection Requirements.

- (1) General requirements.
- (e) Visual inspections. See 62-761.430 Incidents (above).
- (2) Storage Tanks.
 - (a)
 - (8) Visual monitoring of sumps. On page 21, line 49, we believe the word “unexplained” should be inserted before “presence of regulated substances” to deal with a situation where there may be impacted runoff or drips from filter maintenance.

62-761.800 Out-of-Service and Closure Requirements.

- (1) Out-of-service storage tank systems.

FPMA continues to object to the differentiation allowable out-of-service designations between secondary containment systems and corrosion-resistant single-walled systems. Further, FPMA objects to the site assessment requirement for out-of-service corrosion-resistant single-walled systems. Finally, to be consistent with

“grandfathering” provisions of the rule, the phrase “, if required,” should be inserted on page 26, line 24, between “or” and “is.”

(4) We understand Rule 62-761.800(4) not to require site assessments for single-walled components, such as spill buckets, upon closure. If we are incorrect in that assumption, please advise us in writing.

62-761.850 Alternate Procedures and Equipment Registration.

(1) Alternate procedure requirements.

(d) The rule states that the Department’s failure to timely issue an order for an Alternate Procedure does not approve or deny the request. We note that the Legislature has expressed clear intent that agency approves be “deemed” approved if not acted upon timely by the agency. This intent is expressed with respect to licenses (section 120.60(1), Florida Statutes) and variances or waivers (section 120.542(8), Florida Statutes). Therefore, it is not appropriate for the Department to include a “non-deemer” provision in this rule.

Underground Storage Tank Closure and Investigation Report Form.

While we understand that this Form is a “work in progress,” Section 2.B.2., particularly subsections c and d, cause us concern. Under 40 CFR 280.52, a “site check” is a means by which an owner or operator measures for contamination to see if a release has occurred. Therefore, subsection c is not correct. If a discharge was discovered during closure, the discharge was likely discovered by a site check, so a site check would not be necessary. Also, this section illustrates the problem discussed above with respect to known, program-eligible contamination. It is true that 2.B. states “was an incident discovered during the evaluation?” If we read that to mean that we are only talking about failed evaluations, then “incidents” (e.g., stained soils) discovered during the closure do not trigger discovery. That is a very significant distinction which should not be made with subtle language. Perhaps 2.B. should state: “Did the Integrity Evaluation fail?” and question 2 is not needed. Instead, 2a, b, c, and d go under question 1. In this case, there may not need to be discussion of a site check at all. The investigation of whether the failed Integrity Evaluation leads to discovery of a discharge will be addressed and if there is discovery of a discharge, a Site Assessment will be required. Finally, if the term “site check” is kept for a reason, it should be made clear that a “site check” may or may not

Mr. William. Burns, Jr.
August 7, 2014
Page 6

lead to discovery of a discharge. One must read into the term “site check” the ability to interpret the data to be able to determine whether the discovery of contamination represents a new or previously reported discharge.

With respect to Item 6, Closure Investigation, and item 2.B.2., isn't it possible that the incident investigation can continue after the system is removed? If so, why would it be necessary to automatically require a Closure Investigation if the incident investigation was not completed prior to closure? (I suppose one question might be: what does “prior to closure” mean?).

Also, item 6 references 2.B.a. We assume this means 2.B.2.a. If so, if the investigation indicates that the incident was a discharge, why would one do a closure investigation? The point of a closure investigation is to determine whether a discharge occurred (again, we assume this means discovery of a new discharge). If a (new) discharge occurred, Site Assessment would be the next step unless the discharge is de minimis.

We would appreciate the opportunity to continue to work with the Department on the closure issues. In the meantime, if you have any questions regarding these comments, please contact me.

Sincerely,



Robert D. Fingar

RDF/cg

cc: Mr. Ned Bowman, FPMA
Mr. Randy Miller, FRF

CHAPTER 62-761
UNDERGROUND STORAGE TANK SYSTEMS

2	62-761.100	Intent
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24	62-761.900	Storage Tank Forms

62-761.100 Intent.

(1) The purpose of this Chapter is to provide requirements standards for the registration, construction, installation, operation, maintenance, repair, closure, and disposal of underground storage tank systems that store regulated substances, in order and to minimize the occurrence and environmental risks of releases and discharges. This Chapter provides requirements standards for underground storage tank systems having individual storage tank capacities greater than 110 gallons.

(2) No change.

(3) Site access to the facility and individual storage tank system or system components shall be provided for compliance inspections conducted at reasonable times. Facility owner or operator shall provide the Class A or B Operator designated pursuant to Rule 62-761.350, F.A.C., to unlock and open any covers, manways, and release detection equipment associated with the storage tank system or system component and demonstrate operational functionality of electronic equipment.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 403.091 FS. History—New 12-10-90, Formerly 17-761.100, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.200 Definitions.

All words and phrases defined in Sections 376.301 and 376.79, F.S., shall have the same meaning when used in this chapter unless specifically stated otherwise in this chapter. See Sections 376.301 and 376.79, F.S., for definitions of the following terms: “Contaminant (contamination shall mean the same as contaminant),” “Contaminated site,” “Department,” “Discharge,” “Facility,” “Flow-Through Process Tank,” “Hazardous substances,” “Operator,” “Owner,” and “Pollutants.” The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:~~The following words, phrases or terms used in this chapter, unless the context indicates otherwise, shall have the following meaning:~~

(1) No change

(2) “Biofuel” means fuel produced from renewable resources especially, but not limited to, organic feedstocks such as plant biomass, vegetable oils, animal fats and treated municipal and industrial wastes. “AST” means an aboveground storage tank.

(3) “Bulk product piping” means on-site integral piping with an internal diameter greater than three inches that is utilized for transporting regulated substances.

~~(3)(4)~~ “Cathodic protection” means a method of preventing corrosion of a metal surface by making that

surface the cathode of an electrochemical cell through the use of devices such as galvanic anodes or impressed current.

(4)(5) “Cathodic Protection Tester” means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems and be certified as a NACE or STI cathodic protection tester.

(5)(6) “Certified Contractor” means a Pollutant Storage System Contractor certified by the Department of Business and Professional Regulation in accordance with Chapter 489, F.S. Except for the exemptions specified in Chapter 489, F.S., Certified Contractors are not required for activities that do not involve excavating or disturbing the backfill around underground storage tank systems. Certified Contractors are the only contractors authorized to perform the following activities for underground pollutant storage tank systems **if backfill is disturbed:**

(a) Installation of:

1. Underground storage tanks or integral piping, excluding drop tubes;
2. Overfill protection and spill containment;
3. Secondary containment;
4. Internal release detection devices;
5. Cathodic protection systems; and
6. Dispenser sumps ~~liners~~ when the integral piping is connected or disconnected during the installation of secondary containment.

(b) Removal of tanks or integral piping; and

(c) Internal lining of tanks.

(6) “Certified Contractors Form” means Underground Storage Tank Installation and Removal Form for Certified Contractors 62-761.900(5).

(7) “Chlorine” includes organic and inorganic compounds that are liquids at standard temperature and pressure that, when discharged, may release free chlorine (Cl₂) or chlorides (Cl⁻).

(8) “Closure Integrity Evaluation” is an assessment of storage tank system integrity that is performed by a third-party inspection or testing company at closure, replacement, or change in service from a regulated substance to a non-regulated substance. It is the evaluation of the tightness of the interstitial space of a double-walled storage tank, integral piping, piping sump, dispenser sump, and spill containment system; or the tightness of the containment of a single-walled piping sump, dispenser sump, or spill containment system.

(9) “Closure Report Form” means Underground Storage Tank Closure and Investigation Report Form 62-761.900(7). *Renumber*

(10)(8) “Compatible” means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the storage tank system under conditions likely to be encountered in the storage tank system.

(9) “Contamination” or “contaminated” means the presence of regulated substances in surface water, groundwater, soil, sediment, or upon the land, in quantities result in exceedances of applicable cleanup target levels specified in Chapter 62-770, F.A.C., where petroleum or petroleum products are present, or water quality standards in Chapter 62-3, 62-302, or 62-550, F.A.C.

(11)(10) “Corrosion Professional” means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal components of a storage tank system. Corrosion Professionals shall be accredited or certified by NACE International as a either a Cathodic Protection Specialist or Corrosion Specialist, or be a professional engineer licensed registered in the State of Florida.

(12) “Corrosion Protection” means the minimization of corrosion by the use of cathodic protection or by the use of vapor corrosion inhibitors.

This definition is still needed for STI P3 tanks and for Vapor Corrosion Inhibitor technologies that are being developed for UST activities. Keeping it in the rule does no harm, and will help provide a foundation for the aforementioned needs. This is an important factor for Zerust and STI, and may result in the need to challenge the rule if omitted.

(12)(11) “County” means a locally administered governmental program under contract with the Department to perform compliance verification activities at facilities with storage tank systems within the boundaries stipulated in the applicable contract.

(12) “Discharge” includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substance which occurs and which affects lands and the surface and ground

waters of the state.

(13) "Discovery" means:

(a) ~~Either actual knowledge or knowledge of facts that could reasonably lead to actual knowledge of the existence of an~~ previously unreported incident, release, or discharge, ~~or an unmaintained storage tank system; or~~

(b) ~~Discovery as specified in the Petroleum Contamination Site Cleanup Criteria subsection 62-770.200(10), F.A.C.~~

(14) "Dispenser" means a dispensing system that is used to transfer regulated substances ~~vehicular fuel~~ from a fixed point to a vehicle or portable container.

(15) "Dispenser liner" means a liner installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(15) "Dispenser sump" means a storage tank system component installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(16) "Dispensing system" means equipment that is used to transfer regulated substances from integral piping through a rigid or flexible hose or pipe to another point of use outside of the storage tank system.

(16)(17) "Double-walled" means a storage tank system or system component that has an outer tank wall, ~~or integral piping that has an outer wall that provides secondary containment of the primary tank or piping.~~

(17) "DRF" means Discharge Report Form 62-761.900(1).

(18)(18) "Empty" means all regulated substances have been removed so that no more than one inch in depth or 0.3 percent by weight of total system capacity of regulated substances remains in the storage tank system.

(19) "Existing contamination" means:

(a) The presence of free product or sheen on the groundwater;

(b) The presence of vapor levels in monitoring wells measured in accordance with DEP's "Guidelines for Vapor Monitoring" or by a Flame Ionization Detector or an equivalent instrument in excess of:

1. 500 parts per million total petroleum hydrocarbons for storage tank systems containing gasoline or equivalent petroleum products; or

2. 50 parts per million total petroleum hydrocarbons for storage tank systems containing kerosene, diesel or other equivalent petroleum products;

(c) Results of analytical tests on a groundwater sample that:

1. Exceed the cleanup target levels for petroleum products' contaminants of concern specified in Table I of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

(d) After July 13, 1998, results of analytical tests on a soil sample that:

1. Exceed the lower of direct exposure residential and leachability based on groundwater criteria cleanup target levels for petroleum products' contaminants of concern specified in Table II of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above.

(20) "Facility" means a nonresidential location containing, or that contained, any stationary tank or tanks containing, or that contained regulated substances, and that have, or had, individual capacities greater than 110 gallons for UST systems.

(19)(21) "Free product" means the presence of nonaqueous phase liquid in the environment a regulated substance in excess of 0.01 foot in thickness, measured at its thickest point, ~~floating on water, surface water or groundwater.~~

(22) "Hazardous substances" means those substances defined as hazardous substances in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(23) "Heating oil" means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces.

(24) "High viscosity" means a pollutant with a viscosity of 30 centistokes (cSt) and higher at 40 degrees Centigrade.

(25) "Hydraulic lift tank" means a tank that holds hydraulic fluid for a closed-loop mechanical system used to operate lifts, elevators, and other similar devices.

(20)(26) “Hydrostatic test” means a containment integrity test for a storage tank system or storage tank system component that is performed in accordance with this Chapter using equilibrium and the pressure of liquids to ~~test the integrity of the tank or system component.~~

(21)(27) “Impervious” means:

(a) A synthetic material or another material ~~registered~~approved in accordance with subsection 62-761.850(2), F.A.C., that is compatible with the stored regulated substance, and has a permeability rate to the regulated substance stored of 1×10^{-7} cm/sec or less; or,

(b) For concrete structures, a material that:

1. Meets the design and construction standards of Design Considerations for Environmental Engineering Concrete Structures, ACI 350.4R-04, 2004 and Control of Cracking in Concrete Structures (Reapproved 2008), ACI 224R-01, 2008, American Concrete Institute (ACI), published by ACI, 38800 Country Club Drive, Farmington Hills, Michigan 48331, hereby adopted and incorporated by reference ~~ACI 350R-89 and ACI 224R-89~~; or

2. Is applied to the concrete in accordance with Design, Installation, and Maintenance of Coating Systems for Concrete Used in Secondary Containment, SSPC-TU 2/NACE 6G197, July 2009, SSPC: The Coatings Society/NACE International, Published by NACE Reports, SSPC, 40 24th Street, 6th Floor, Pittsburgh, Pennsylvania 15222-4643, or NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and available at the addresses given ~~NACE International Standard RP0892-92. Standard Recommended Practice - Coatings and Linings over Concrete for Chemical Immersion and Containment Service SP0892-2007~~

(22)(28) “In contact with the soil” means any portion of a storage tank system, that physically touches the soil or, if not in direct contact with the soil, is separated from the soil only by a casing, wrapping, or other material that is not impervious, integral piping connected to USTs, or any portion of a tank, that:

(a) ~~Physically touches the soil; or~~

(b) ~~Is not in direct contact with the soil, and is separated from the soil only by a casing, wrapping, or other material that is not impervious.~~

(c) ~~Those portions of integral piping that are elevated and that are not in direct contact with the soil are excluded from this definition.~~

(23)(29) “Incident” is a condition or situation indicating that a release or discharge may have occurred from a storage tank system or system component.

(24) “INF” means Incident Notification Form 62-761.900(6).

(25)(30) “In-service” means a storage tank system which contains greater than one inch or 0.3% by weight of regulated substance, or where the owner or operator has not reported to the Department pursuant to subsection 62-761.405(2), F.A.C., and that the tank is out-of-service pursuant to subparagraph 62-761.800(1)(a)2., F.A.C. ~~is being actively maintained and operated in accordance with this Chapter. Non compliance with any specific rule within this Chapter does not exclude the system from being considered “in service.” Subject to the above, a storage tank system is also considered to be in service if it:~~

(a) ~~Contains regulated substances or has regulated substances regularly added to or withdrawn from the system;~~

(b) ~~Is emptied solely for the purpose of cleaning, routine maintenance, or a change in product, for a time period not exceeding 45 days; or~~

(c) ~~Contains non regulated substances and is still maintained in an in-service status at the request of the owner or operator.~~

(26)(34) “Integral piping” means on-site piping, originating or terminating at the regulated storage tank or tanks, that conveys regulated substances. Integral piping, not including vapor recovery lines and vent lines, includes all valves, elbows, joints, flanges, pumps, and flexible connectors, associated with the pipe originating at the storage tank up to the:

(a) Union of the piping with the dispenser~~dispensing system~~;

(b) Fill cap or fill valve; or

(c) Forwarding pump used for transferring regulated substances to a flow-through process tank or an industrial production or manufacturing point of use; ~~or~~

(d) ~~First flange or connection within the loading rack containment area.~~

(27) “Integrity test” means a determination of the liquid tightness of a storage tank system or system component using one of the following types of tests:

(a) “Interstitial integrity test” means an evaluation of the interstitial space in a double-walled storage tank system or system component using vacuum, pressure, liquid level monitoring systems, or equivalent test methods certified by a Nationally Recognized Testing Laboratory; or

(b) “Primary integrity test” means an evaluation of the liquid tightness of the primary tank or integral piping.

(c) “Containment integrity test” means an evaluation of the liquid tightness of hydrant pits, isolation valve pits, piping sumps, dispenser sumps, and spill containment systems.

(32) “Internal lining” means a material that is applied internally on USTs to protect the tank from internal corrosion.

(28) “Interstice” means the space between the primary and secondary wall of a storage tank system or system component.

(29)(33) “Interstitial monitoring” is a method of release detection in which the interstice is monitored. release detection method that is used to determine the presence of regulated substances or water between the primary and secondary containment. Interstitial monitoring can be performed within:

(a) A closed interstitial space between two steel or impervious barriers that are sealed, not open to the atmosphere, and designed to be tested for a breach of integrity of the interstitial space; or

(b) An open interstitial space between two steel or impervious barriers that are open to the atmosphere, and not designed to be tested for a breach of integrity of the interstitial space.

(34) “Liner” means an impervious material that meets the performance standards of paragraph 62-761.500(1)(d), F.A.C., that is used externally as a method of secondary containment.

(30)(35) “Maintenance” means the normal operational upkeep in accordance with Rule 62-761.700, F.A.C., to prevent a storage tank system or system component from releasing or discharging regulated substances.

(31)(36) “Nationally Recognized Testing Laboratory” means an international or national organization or governmental entity that can perform quantitative and qualitative tests on storage tank system equipment, evaluate the test data and equipment performance, and make determinations of the equipment’s capability of meeting the technical requirementsstandards of this Chapter. A Nationally Recognized Testing Laboratory shall have at least five years of professional storage tank system equipment testing experience. Nationally Recognized Laboratories include organizations such as Underwriter’s Laboratories, Carnegie Mellon Research Institute, Midwest Research Institute, Ken Wilcox Associates, Factory Mutual, and American Board of Engineering and Technology (ABET) Accredited Universities.

(32) “New” means a storage tank system or system component that is installed after (effective date of the rule).

(33)(37) “On-site” means on the same or geographically contiguous property as the facility regulated under this Chapter, that is under the same ownership or control, The property and which may be divided by a public or private right-of-way or an easement.

(34) “Operability test” means a test performed to determine if electronic and mechanical release detection and overfill protection devices or systems are functioning as designed and in accordance with manufacturers specifications.

(38) “Operational life” refers to the period from the start of installation of the storage tank system to the completion of the closure of the storage tank system in accordance with subsection 62-761.800(2), F.A.C.

(39) “Operator” means any person operating a facility, whether by lease, contract, or other form of agreement.

(35)(40) “Out-of-service” means a storage tank system or system component meeting the requirements in subsection 62-761.800(1), F.A.C., and is designated as an out-of-service system by the owner or operator to the Department on Form 62-761.900(2), F.A.C. with notification in accordance with Rule 62-761.405(2), F.A.C. that:

(a) Is designated as an out of service system by owner or operator notification to the Department on Form 62-761.900(2);

(b) Is empty as defined in subsection 62-761.200(18), F.A.C.; and

(c) Does not have regulated substances transferred into or withdrawn from the tank as specified in subsection 62-761.800(1), F.A.C., for a maximum time of:

1. Two years of being taken out of service for USTs; or

2. Ten years of being taken out of service for storage tank systems with secondary containment.

(36)(41) “Overfill” is an incident a release or discharge that occurs when a tank is filled beyond its capacity.

(37) “Overfill protection” is a device or method for preventing an incident, release, or discharge from a storage tank during filling of the storage tank system.

(42) “Owner” means any person as defined in Section 376.301(23), F.S., owning a facility.

(38)(43) “Pesticides” mean any substance or mixture of substances, as defined in 487.201, F.S., intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the Department of Agriculture and Consumer Services by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term “pesticide” does not

include any article that:

(a) Is a "new animal drug" within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act;
(b) Has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or

(c) Is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection, means all preparations, products, and substances included in the Department of Agriculture and Consumer Services' Rule 5E 2.002, F.A.C.

(44) "Petroleum" includes:

(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and

(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph 62-761.200(44)(a), F.A.C.

(45) "Petroleum product" means any liquid fuel commodity made from petroleum.

(a) Forms of fuel considered to be petroleum products include all fuels known or sold as:

1. Diesel fuel;
2. Kerosene;
3. Gasoline; and
4. Fuels containing mixtures of gasoline and other products.

(b) Forms of fuel excluded from this definition are:

1. Liquefied petroleum gas;
2. American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils;
3. Bunker C residual oils;
4. Intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher;
5. Asphalt oils; and
6. Petrochemical feedstocks.

(39)(46) "Pipe" or "piping" means any hollow cylindrical or tubular conveyance through which regulated substances flow.

(40)(47) "Piping sump" or "Submersible turbine pump sump" means a storage tank system component liner installed as secondary containment or a monitoring port at the top of a tank or lowest point in the integral piping to detect releases.

(48) "Pollutants" includes any "product" as defined in Section 377.19(11), F.S., pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(49) "Pressure test" means a test to determine the integrity of integral piping performed in accordance with subparagraph 62-761.640(5)(a)1., F.A.C.

(41)(50) "Pressurized piping" means piping through which regulated substances flow due to a pump that is not located at the dispenser/dispersing system.

(42)(51) "Product" as defined in Section 377.19(11), F.S., means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, used oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(52) "Registered Precision Tank Tester" means a contractor that performs tightness tests on USTs, and small diameter piping connected to USTs, that is registered by the Department of Business and Professional Regulation pursuant to Chapter 489, F.S.

(43) "Registration form" means Storage Tank Facility Registration Form 62-761.900(2).

(44)(53) "Regulated substance" means a liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), that is a pollutant or a hazardous substance, or any mixture of the two, when stored in a storage tank system UST.

(45)(54) "Release" means:

(a) A discharge; or

(b) A loss of regulated substances from a storage tank system or system component into the system's secondary containment.

(46)(55) "Release detection" means a method of:

(a) ~~Determining whether a discharge of regulated substances has occurred; or~~

(b) ~~detecting the presence of regulated substances within a storage tank system's or system component's secondary containment; and/or detecting other conditions or situations indicative of a release or discharge.~~

(56) ~~"Release detection response level" is the point of measurement, calculation, observation, or level that is established for each individual release detection device or method at which an investigation must be initiated to determine if an incident, release, or discharge has occurred.~~

(47)(57) ~~"Repair" means to restore or replace any defective or damaged parts of a storage tank system or system component; in accordance with Rule 62-761.700, F.A.C. Replacement of a non-defective part is not a repair.~~

(48)(58) **"Residential storage tank system"** means a storage tank system that services a non-commercial building that is used exclusively as a dwelling unit which means a structure that is used as a home or residence by one or more persons who maintain a common household, excluding transient occupancies, is located on property used primarily for dwelling purposes, and the storage and use of regulated substances in the tank is for residential purposes.

(49)(59) ~~"Secondary containment" means a release detection and discharge prevention system that meets the performance requirements standards of paragraph 62-761.500(1)(b), F.A.C., and includes dispenser sumps liners, piping sumps, spill containment systems, the outer wall of double-walled tanks and integral piping, or the liner systems, or single-walled tanks or piping systems that are contained within a liner or an impervious containment area surrounding single-walled tanks or integral piping.~~

(50)(60) ~~"Sheen" means a regulated substance less than or equal to 0.01 foot in thickness, measured at its thickest point, or visibly observed, floating on surface water, groundwater, or within secondary containment.~~

(61) ~~"Significant loss or gain" means the sum of losses and gains of a regulated substance over a 30 day or monthly period that exceeds:~~

(a) ~~For tanks with capacities between 111 and 2,000 gallons with an individual flow through less than 5,000 gallons during the previous 30 days:~~

1. ~~One percent of the tank capacity; or~~
2. ~~One percent of the total weekly output; or~~
3. ~~Fifty gallons, whichever is greatest; or~~

(b) ~~For tanks with capacities greater than 2000 gallons, or tanks with an individual flow through exceeding 5,000 gallons during the previous 30 days:~~

1. ~~One percent of the tank capacity; or~~
2. ~~One percent of the amount of product dispensed during the previous 30 days, plus 130 gallons, whichever is greatest.~~

(62) ~~"Small diameter piping" means integral piping with an internal diameter of three inches or less that is utilized for transporting regulated substances.~~

(51) ~~"Spill containment system" means a fixed component that is designed to prevent a discharge of regulated substances from the tank fill pipe.~~

(52)(63) ~~"Storage tank system" means a tank used to contain regulated substances, its integral piping, and all its components, including dispensers dispensing systems, spill containment systems devices, overfill protection systems devices, secondary containment systems, and any associated release detection equipment. A storage tank system is a "storage system" as defined in Chapter 376.301, F.S.~~

(53) **"Storage tank system component" or "system component" means any part (mechanical, electrical, and plumbing) of the storage tank system that is essential** for a tank system to operate properly and safely. This includes tanks, integral piping, sensors, sumps, pumps, including dispensers, spill containment systems, overfill protection systems, secondary containment systems, and any associated release detection equipment.

(54)(64) ~~"Suction piping" means piping through which regulated substances flow due to a pump located at the dispenser dispensing system.~~

(55)(65) ~~"Tank" means an enclosed stationary container or structure that is designed or used to store regulated substances, and the volume of which, including the volume of underground piping, is ten percent or more buried beneath the surface of the ground.~~

(66) ~~"Tightness test" means a test for an underground storage tank or its small diameter piping that is performed in accordance with subparagraphs 62-761.640(3)(f)1. and (4)(b), F.A.C., by a precision tank tester registered with the Department of Business and Professional Regulation under Chapter 489, F.S.~~

(67) ~~"UST" means an underground storage tank.~~

(68) ~~"UST Category A system" means a system containing pollutants that was installed on or before June 30, 1992, or a system containing hazardous substances that was installed before January 1, 1991.~~

(69) ~~"UST Category B system" means a system containing pollutants that was installed after June 30, 1992, or a~~

system containing hazardous substances that was installed on or after January 1, 1991, and before July 13, 1998.

(70) “~~UST Category C system~~” means a system that was installed on or after July 13, 1998. USTs that are removed and relocated on or after July 13, 1998 are considered Category C systems.

(71) “~~Unmaintained~~” means:

(a) ~~A storage tank system that was not closed in accordance with Department rules; or~~

(b) ~~An out of service storage tank system that is not returned to in-service status within:~~

1. ~~Two years of its being out of service for USTs; or~~

2. ~~Ten years of its being out of service for storage tank systems with secondary containment.~~

(72) “Upgrade” means the addition or retrofit of cathodic protection, internal lining, spill prevention, overfill protection, or secondary containment, to a storage tank system, or the installation of single wall corrosion resistant storage tanks, to improve the ability of the storage tank system to prevent discharges of regulated substances.

(73) “Vehicular fuel” means a petroleum product used to fuel motor vehicles, including aircraft, watercraft, and vehicles used on and off roads and rails.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 489.133 FS. History—New 12-10-90, Amended 5-4-92, 3-8-94, Formerly 17-761.200, Amended 9-30-96, 7-13-98, 6-21-04,_____.

Substantial rewording of Rule 62-761.210, F.A.C., follows. See Florida Administrative Code for present text.

62-761.210 Reference RequirementsStandards.

(1) Referenced requirements are available for inspection at the County Offices, and the Department of Environmental Protection’s District and Tallahassee Offices, and directly from the source.

(2) Titles of documents. References to documents listed in paragraphs 62-761.210(2)(a) through (j), F.A.C., below are made throughout this Chapter. Each document or part thereof is adopted and incorporated as a guideline only to the extent that it is specifically referenced in this Chapter. To the extent that the provisions contained in the following reference requirements conflict with this Chapter, the Department’s requirements as stated in this Chapter shall control.

(a) American Petroleum Institute (API), 1220 L Street, N.W. Washington, D.C. 20005, (202) 682-8000, or at <http://www.api.org/>.

1. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996;

2. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011;

3. Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996; and

4. Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006.

(b) ASME International (founded as the American Society of Mechanical Engineers), 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800) 843-2763, or at <http://www.asme.org/>: Process Piping, B31.3-2004, 2012 Edition.

(c) NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, (800) 797-6223, or at <http://www.nace.org/>:

1. Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition; and

2. Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition.

(d) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (800) 344-3555, or at www.nfpa.org/:

1. Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition;

2. Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C), 2012 Edition; and

3. Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition.

(e) National Institute of Standards and Technology (NIST), NIST, 100 Bureau Drive, Stop 1070, Gaithersburg, MD 20899-1070, (301) 975-NIST (6478), or at <http://www.nist.gov/index.html>.

(f) National Leak Prevention Association (NLPA), Route 2 Box 106A, Falmouth, Kentucky 41040, (702) 832-2260, or at <http://www.nlpa-online.org/>: **NLPA Standard 631, 1991.**

(g) Petroleum Equipment Institute (PEI), Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918) 494-9696, or at www.pei.org/;

1. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition; and

2. Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition.

(h) Steel Tank Institute (STI), 944 Donata Court, Lake Zurich, Illinois 60047, (847) 438-8265, or at <https://www.steeltank.com/>;

1. sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013; and

2. Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006;:

3. Cathodic Protection Testing Procedures for sti-P3® UST's, STI R051-06, (R051), Rev. January 2006;

4. Storage Tank Maintenance STI R111, (R111), Rev. July 2011;

5. Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, STI R972, Rev. January 2006;

6. Standard for Dual Wall Underground Steel Storage Tanks, F841, Rev. January 2006;

7. Specification for External Corrosion Protection of FRP Composite Steel USTs - ACT-100®, F894, Rev. September 2011;

8. Permatank®: Specification for Permatank®, F922, Rev. January 2013; and

9. Specification for External Corrosion Protection of Composite Steel USTs - ACT-100-U®, F961, Rev. September 2013.

(i) Underwriters Laboratories Standards (UL), 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847) 272-8800, or at www.ul.com/;

1. Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition;

2. Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition;

3. Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition; and

4. External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition.

5. Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems, UL 1856, 2013 Edition.

(j) U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001, (202) 512-1800, or at www.gpo.gov/;

1. Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST), Title 40, Part 280, July 2008; Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001; and

2. Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001.

(3) Applicability of Reference Requirements: Unless otherwise specified in this Chapter, **facilities installed after June 30, 1992**, and before *(effective date of the rule)* are subject to the Reference Requirements listed in the Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities installed after *(effective date of the rule)* shall comply with this subsection on or after *(effective date of the rule)*.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New12-10-90, Amended 7-13-98, 6-21-04, _____.

62-761.300 Applicability.

(1) General Requirements:

(a) ~~Underground storage tank systems:~~ The requirements of this Chapter, unless specified otherwise, apply to owners and operators of facilities, ~~and owners and operators of underground storage tank UST systems with individual storage tank capacities greater than 110 gallons, that contain or contained regulated substances. Unless otherwise specified in this Chapter, facilities installed after June 30, 1992, and before (effective date of the rule) are subject to the Reference Requirements listed in the Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities installed after (effective date of the rule) shall comply with this subsection on or after (effective date of the rule).~~

1. ~~Vehicular fuel, subject to Chapter 17-61, F.A.C., after May 21, 1984;~~
2. ~~Pollutants or hazardous substances after December 10, 1990; or~~
3. ~~Regulated substances in unmaintained storage tank systems.~~
- (b) ~~This rule is applicable to non-residential facilities. Under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal UST rules (advisory information only not required by this Chapter).~~
- (2) Exemptions: The following ~~underground systems~~ are exempt from the requirements of this Chapter:
 - (a) Any storage tank system storing any hazardous waste listed or identified under Subtitle C of the Resource Conservation and Recovery Act, or a mixture of such hazardous waste and other regulated substances;
 - (b) Any storage tank system regulated under the Toxic Substances Control Act (15 U.S.C. 2065);
 - (c) Any pesticide waste degradation system regulated under Chapter 62-660, F.A.C.;
 - (d) Storage tank systems used solely for temporary storage of mixtures of pesticides and diluent for reapplication as pesticides;
 - (e) Any storage tank system with a storage capacity of less than 30,000 gallons used for the sole purpose of storing heating oil for consumptive use on the premises where stored. "Heating oil" means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces;
 - (f) Any tank that contains asphalt or asphalt products not containing other regulated substances;
 - (g) Any storage tank system storing regulated substances that are solid or gaseous at standard temperature and pressure;
 - (h) Any storage tank containing Liquid Petroleum Gas;
 - (h)(i) Any storage tank system that:
 1. Contains a regulated substance at a concentration of less than two percent for pollutants and below the reportable quantities for hazardous substances under 40 C.F.R. 302; and
 2. Was never previously regulated under Chapter 376.30 through 376.309, F.S. or this Chapter; contains small quantities (de minimus, as per 40 C.F.R. Section 280.10(b)(5)) of regulated substances;
 - (i)(j) Any storage tank system that contains wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;
 - (j)(k) ~~Any septic tank system;~~
 - (k)(l) Any stormwater or wastewater collection system, including oil-water separator tanks;
 - (m) Any surface impoundment, pit, pond, or lagoon;
 - (l)(n) Any agricultural storage tank system of 550 gallons capacity or less that is used for agricultural purposes;
 - (m)(o) Any residential storage tank system used solely for residential purposes. However, under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal underground storage tank rules;
 - (n)(p) Any emergency spill or emergency overflow containment storage tank system that is emptied as soon as possible after use, and that routinely remains empty;
 - (o) Any flow-through process tank system. For industrial and manufacturing facilities, integral piping is considered to terminate at the forwarding pump or valve used to transfer regulated substances to process, production, or manufacturing points of use or systems within the facility;
 - (p)(r) Any storage tank system, liquid trap, or associated gathering lines directly related to oil or gas production and gathering operations regulated by Chapter 377, F.S.; however, this exclusion does not apply to storage tanks that contain refined products;
 - (q)(s) Any equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift or fluid tank systems that hold hydraulic fluid for closed-loop mechanical systems used to operate lifts, elevators, and other similar devices and dielectric fluid (cooling and lubricating oil) systems used for electrical equipment and electrical equipment tank systems;
 - (r)(t) Any pipeline, piping and "break-out" tanks directly connected to the pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration, pursuant to Title 49, Parts 190-199 of the Code of Federal Regulations facilities;
 - (s)(u) Any storage tank system containing radionuclides or that is part of an emergency generator system for nuclear power generation at facilities regulated by the Nuclear Regulatory Commission under 10 C.F.R. Part 50 Appendix A;
 - (t)(v) Any vapor recovery holding tanks and associated vapor recovery piping systems; or
 - (u) Any storage tank system containing biofuel that has a concentration of regulated substance of five percent or less by volume.

(v)(w) Any rail or tanker truck loading or unloading operations (loading racks) specified in Chapter 5 of NFPA 30.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.300, Amended 7-13-98, 6-21-04.

62-761.350 Operator Training and Certification (Reserved for Rulemaking)

62-761.400 Registration and Financial Responsibility.

(1) For installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction begins.

(b) A completed Form 62-761.900(2), Storage Tank Facility Registration Form (Registration Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the Department **no later than 30 days after prior to installation**. Copies of the Registration Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

Hess is concerned that there are many projects that will change timing/scope/etc. that will lead to tanks being registered and not installed, and/or registered improperly with the 30 days prior and prefers the current system of 30 days after.

(c) A completed Form 62-761.900(5), Underground Storage Tank System Installation and Removal Form for Certified Contractors (Certified Contractors Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the County no later than **21** days after installation of a storage tank system, **storage tank or integral piping**. Copies of the Certified Contractors Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or, www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(2) For change in service status or closure pursuant to Rule 62-761.800, F.A.C.:

(a) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days after completion of the change in service status.

(b) A completed Certified Contractors Form shall be submitted to the County in paper or electronic format no later than 10 days after removal of a storage tank system.

(3) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days of the following changes or discovery:

(3) Financial responsibility.

(a) Any change in the owner or operator of a facility or of a storage tank system.

(a) General requirements.

1. The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance. Financial responsibility is only required for tanks containing petroleum or petroleum products. Financial responsibility is the ability to pay for corrective action and third party liability resulting from a discharge at the facility.

2. The demonstration of financial responsibility shall be made by the owner or operator in accordance with C.F.R. Title 40, Part 280, Subpart H.

3. Financial responsibility requirements for petroleum storage systems containing petroleum products may be supplemented by participation in the Florida Petroleum Liability Restoration and Insurance Program to the extent provided by Section 376.3072, F.S.

4. Notwithstanding the owner's or operator's financial responsibility status, the owner or operator may, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.

(b) Any change or correction in the information reported in the Registration Form. A change within the same blend of regulated substances should not be reported (e.g., regular unleaded to premium unleaded gasoline);

(b) The minimum requirements for financial responsibility for USTs containing petroleum or petroleum products shall be the same as provided by C.F.R. Title 40, Part 280, Subpart H.

(c) A change from a regulated substance to a non-regulated substance; and

(d) The discovery of an unregistered storage tank system.

~~(1) General registration requirements.~~

~~(a) The owner or operator of any facility, or the owner or operator of a storage tank system shall register the storage tank system with the Department on Form 62-761.900(2).~~

~~(b) A completed registration form shall be submitted to the Department no later than 30 days after regulated or hazardous substances are put into any new storage tank system.~~

~~(4)(2) Registration fees.~~

(a) Registration fees are due from the tank or facility owner or operator, as indicated in this section, for all ~~registered~~ storage tank systems required to be registered. Registration fees except for storage tank systems that have been properly closed in accordance with subsection 62-761.800(2), F.A.C., will no longer be due once any outstanding fees have been paid.

(b) A ~~registration~~ fee of \$50.00 per tank ~~or vessel~~ shall be submitted for each initial registration of a storage tank system. The fee shall be paid within 30 days after receipt of an invoice by the Department.

(c) A renewal fee of \$25.00 per tank shall be paid to the Department for each storage tank system ~~not meeting the closure requirements of subsection 62-761.800(2), F.A.C.~~ by July 1 each year.

(d) A ~~replacement~~ fee of \$25.00 per tank shall be paid to the Department for each tank that is replaced ~~for the purpose of facility upgrading~~, within 30 days after receipt of an invoice by the Department.

(e) A late fee of \$20.00 per tank shall be paid to the Department for any renewal that is received after July 31.

(f) Upon receipt of payment of all applicable initial registration fees and annual renewal fees, each facility shall receive a registration placard, pursuant to Section 376.3077, F.S. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the storage tank system is located. Posted on the Department website will be information regarding those motor fuel facilities who have not timely paid their registration fees. Each facility shall receive a registration placard upon payment of all applicable fees. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the tank is located.

(5) Unless a current registration placard is displayed in plain view as required by paragraph 62-761.400(4)(f), F.A.C., no motor fuel may be deposited into a storage tank required to be registered pursuant to this Rule. Facility owners, operators and suppliers are each responsible for compliance with this provision.

(6) Revocation of Registration Placard. (Reserved for Rulemaking)

(7) Delivery prohibitions. (Reserved for Rulemaking)

Rulemaking Specific Authority 376.303, 376.322(2) FS. Law Implemented 376.303, 376.309, 376.323, 376.3077, 489.133 FS. History—New 12-10-90, Formerly 17-761.400, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.405 Notification.

(1) For Installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction will begin.

(b) Notification shall be received by the County in writing or electronic format between 1430 and 3045 days before installation of a storage tank system or system component unless the County agrees to a shorter time period.

As with the previous section, Hess is concerned that there are many projects that will change timing/scope/etc. that will lead to tanks being registered and not installed, and/or registered and notified improperly with the 30 days prior timeframe.

(c) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the installation work to confirm the date and time of the scheduled activities.

(2) For change in service status and closure:

(a) Notification shall be received by the County in writing or electronic format between 10 and 25 days before the initiation of the work unless the County agrees to a shorter time period.

(b) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the initiation of the work to confirm the date and time of the scheduled activities.

(c) Closure Integrity Evaluation reports prepared in accordance with paragraph 62-761.800(3)(a), F.A.C., must be provided to the County with the notification of closure or change in service from a regulated substance to a non-regulated substance.

(3) Notification of the discovery of an incident shall be made to the County in writing or electronic format on

Form 62-761.900(6), Incident Notification Form (INF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 72 hours of *the discovery* or before the close of the county's next business day; however, an INF need not be submitted if, within 72 hours of discovery, the investigation of the incident in accordance with Rule 62-761.430, F.A.C., confirms that a discharge did or did not occur. Copies of the INF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(4) Notification of the discovery of a discharge shall be made to the County in writing or electronic format on Form 62-761.900(1), Discharge Report Form (DRF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 24 hours of *the discovery* or before the close of the County's next business day. Copies of the DRF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.450, 62-761.450, Amended 9-30-96, 7-13-98, 6-21-04.

62-761.420 Financial Responsibility.

(1) Financial responsibility is the ability to pay for cleanup of a discharge and third-party liability resulting from a discharge of petroleum or petroleum product at the facility.

(2) The owner or operator of *a facility, or individual tanks, if of different ownership*, shall demonstrate financial responsibility to the Department for all storage tank systems until they are properly closed. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance.

(3) The demonstration of financial responsibility for storage tank systems shall be made available for inspection by the Department or the County and shall be in accordance with Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST) – Financial Responsibility, Title 40, Part 280, Subpart H, July 2008, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, hereby adopted and incorporated by reference, and is available from the address given or www.flrules.org/Gateway/reference.asp?No=Ref-000###.

(4) Notwithstanding the owner's or operator's financial responsibility status, the owner and operator shall, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.

(5) *Financial responsibility mechanisms may not include choice of law and venue in favor of jurisdictions other than Florida.*

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.309, 403.091 FS. History—Formerly 62-761.400, Amended

62-761.430 Incidents.

(1) Incidents include:

(a) The following positive responses of release detection devices or methods described in Rule 62-761.600, F.A.C.:

1. Any visual inspection of any part of a storage tank system, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances that reveals *significant pitting corrosion with more than a fifty percent loss of its original design thickness or that may adversely affect design integrity*, or cracking, splitting, blistering, delamination, *signs of corrosion*, structural damage, leakage, or other similar problems with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C.:

This is another significant issue and potential deal-breaker with industry. The 50% value is quantifiable and supportable. Anything else is subjective with the potential for inspector bias or misinterpretation.

2. Any visual observation of regulated substances in a piping or dispenser sump;

3. Any alarm that indicates that liquid, vacuum, or pressure monitoring levels are not being maintained, or

that liquid has been detected by a sensor in a normally dry interstice;

4. Any visual observation that indicates that liquid monitoring levels are not being maintained;

5. Any vacuum or pressure change of 50% from one month to the next, or any cumulative change of vacuum or pressure exceeding 50% of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge;

6. Any visual inspection that indicates the presence of groundwater or surface water, other than condensate, and/or regulated substances in the interstice;

7. Any instance where a mechanical line leak detector is restricting flow;

8. Any instance where an electronic line leak detector has shut off power to the pump;

9. Any instance where a monitoring device has shut off the pump; and

10. Liquid in excess of one inch in an out-of-service storage tank.

(b) A failed integrity test for the following components;

1. Double-walled storage tanks;

2. Double-walled integral piping;

3. Piping sumps;

4. Dispenser sumps; and

5. Spill containment systems.

(c) Other unusual operating conditions, such as the erratic behavior of product dispensing equipment, the sudden loss of product from a storage tank system, or any unexplained presence of groundwater or surface water in a tank or an interstitial space;

(d) The presence of odors of a regulated substance from surface water or groundwater, soil, basements, sewers and utility lines at a facility or in the surrounding area from which it could be reasonably concluded that a release or discharge may have occurred; and

(e) The loss of a regulated substance from a storage tank system, such as from an overflow, spills in the dispensing area exceeding 25 gallons on impervious surfaces, other than secondary containment, provided that the loss does not come in contact with pervious surfaces.

Makes it consistent with the intent section of the federal register for the 25 gallon requirement

(2) If an incident occurs at a facility, actions shall be taken within 24 hours of discovery to investigate the incident to determine if a discharge has occurred.

(3) Notification of the discovery of any incident shall be made to the County in writing or electronic format on an INF within 72 hours of the discovery or before the close of the County's next business day. However, an INF is not required to be submitted if, within 72 hours of discovery, the investigation of the incident confirms that a discharge did or did not occur.

(4) In cases where an INF is required to be submitted, the investigation shall be completed within 14 days of the date of discovery of the incident to determine if a discharge has occurred. Incident investigations that require additional time can be extended with the written approval of the Department or the County. However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system shall be placed out-of-service until such time the investigation is completed and resolved.

(5) At the end of the 14 day time period, or at the end of the alternate time period approved by the Department or the County to investigate the incident, either a DRF or a written confirmation and explanation that the incident was not a discharge, including documentation showing that contamination is the manifestation of a previously reported discharge, shall be submitted to the County in writing or electronic format.

(6) The removal of any spill or loss of regulated substance into secondary containment shall be initiated within three days of discovery, and completed within thirty days of discovery.

(7) If a discharge is discovered at any time during the incident investigation, the discharge shall be reported on a DRF within 24 hours of discovery, or before the close of the next business day, and a discharge response shall be initiated in accordance with subsection 62-761.440(6), F.A.C.

(8) All incidents, regardless of whether an INF is required to be submitted, shall be documented and records kept until storage tank system closure in accordance with Rule 62-761.710, F.A.C. Test results or reports, which support the investigation findings, shall be maintained as records.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—Formerly 62-761.820, Amended .

62-761.440 Discharges.

(1) Discharges include:

(a) Laboratory analytical results of surface water or groundwater samples indicating the presence of

contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C.;

(b) Laboratory analytical results of soil samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C. that exceed the lower of direct exposure residential or leachability based on groundwater criteria cleanup target levels in Chapter 62-777, F.A.C.;

(c) The presence of free product, a visible sheen, sludge, or emulsion of a regulated substance, or a regulated substance that is visibly observed in soil, on or in surface water, in groundwater samples, on basement floors, in open drainage ditches, in open excavations or trenches, in subsurface utility conduits or vaults, or in sewer lines at the facility; and

(d) A spill or overfill of a regulated substance to a pervious surface.

(2) Upon discovery of a discharge, the owner or operator shall report the discharge to the County on a DRF within 24 hours or before the close of the County's next business day.

(3) Copies of laboratory analytical results that confirm a discharge shall be submitted to the County within 24 hours of receipt of the results or before the close of the next business day in writing or electronic format.

(4) A request for a retraction of a submitted DRF shall be submitted to the County or the Department in writing or electronic format if evidence is presented that a discharge did not occur at the facility.

(5) A DRF does not need to be submitted:

(a) For a discharge that was previously reported to the appropriate County or the Department on a DRF;

(b) For petroleum or petroleum product de minimis discharges in accordance with subsection 62-780.560(1), F.A.C., unless the regulated substance has a more stringent reporting requirement specified in the following document which is hereby adopted and incorporated by reference, and is available from the address given: Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, or www.flrules.org/Gateway/reference.asp?No=Ref-000###; or

(c) For non-petroleum de minimis discharges in accordance with Rule 62-780.550, F.A.C., unless the pollutant has a more stringent reporting requirement specified in Title 40, Part 302.

(6) Discharge response.

(a) When evidence of a discharge from a storage tank system is discovered, the following actions shall be taken:

1. Fire, explosion, and vapor hazards shall be identified and mitigated;

2. Actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules (e.g., Chapter 62-780, F.A.C., Contaminated Site Cleanup Criteria). Owners and operators are advised that other federal, state, or local requirements apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with Chapter 62-780, F.A.C.;

3. Each component of the storage tank system shall be integrity tested within three days of discovery of the discharge if the source and/or cause of the discharge is unknown unless the storage tank system has been properly placed out-of-service in accordance with subsection 62-761.800(1), F.A.C.;

4. The storage tank system component that is discharging shall be isolated from the system within three days of discovery of the discharge. If the component cannot be isolated from the system, within three days of discovery of the discharge the storage tank system shall not operate, dispense, or accept deliveries, or shall be placed out-of-service in accordance with Rule 62-761.800, F.A.C., until the component can be repaired or replaced;

5. If the storage tank system component that was found to be discharging will be repaired, it shall be repaired in accordance with Rule 62-761.700, F.A.C.;

6. If the storage tank system component that was found to be discharging will be replaced, it shall meet the storage tank system requirements in accordance with Rule 62-761.500, F.A.C.; and

7. If the storage tank system component that was found to be discharging will not be repaired or replaced, the storage tank system, if not already out-of-service, shall be placed out-of-service within 90 days or be closed in accordance with Rule 62-761.800, F.A.C.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—Formerly 62-761.820, Amended .

62-761.450 Notification and Reporting.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.450, Amended 9-30-96, 7-13-98, 6-21-04., Repealed .

Substantial rewording of Rule 62-761.500, F.A.C., follows. See Florida Administrative Code for present text.

62-761.500 Performance Standards for Category C Storage Tank Systems Requirements.

(1) General requirements.

(a) Wellhead Protection. Persons are advised that Chapter 62-521, F.A.C., contains restrictions regarding the location of storage tank systems within 500 feet of a potable water well.

(b) Secondary containment.

1. The materials used for secondary containment shall be:

a. Impervious to the regulated substance and able to withstand deterioration from external environmental conditions;

b. Non-corrosive or of corrosion-protected materials **or by vapor corrosion inhibitor technologies;**
and

c. Of sufficient thickness and strength to withstand hydrostatic forces at maximum capacity to prevent a discharge.

2. For cathodically protected tanks and integral piping, secondary containment systems shall not interfere with the operation of the cathodic protection system.

3. Secondary containment systems shall be designed and installed to direct any release to a monitoring point or points.

4. Containment and interstitial, as applicable, integrity tests shall be performed for all spill containment systems, piping sumps, hydrant sumps, and dispenser sumps before placing the components into initial use. The tests shall be in accordance with manufacturer's requirements. If a hydrostatic test is used, it shall be performed for at least:

a. Twenty-four hours for field-fabricated components; or

b. Three hours for factory-made components.

5. An interstitial integrity test shall be performed on the storage tank after it is delivered and installed at the facility and before the storage tank is placed into service. This test shall be performed in accordance with manufacturer's requirements or with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition, Petroleum Equipment Institute (PEI), Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380, and Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition, Petroleum Equipment Institute (PEI) Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380.

6. An interstitial integrity test shall be performed on integral piping in accordance with PEI/RP100-11 and PEI/RP1200-12 before the integral piping is placed into service.

7. If double-walled spill buckets or double-walled sumps are installed on the system, an interstitial integrity test shall be performed in accordance with PEI/RP1200-12 before the component is placed into service.

(c) Cathodic protection.

1. Test stations. Cathodic protection systems shall be designed, constructed, and installed with test stations in accordance with NACE standards contained in paragraph 62-761.210(2)(c), F.A.C. Cathodic protection test stations shall provide direct access to the soil in close proximity to each cathodically protected structure for placement of reference electrodes, and monitoring wires that connect directly to cathodically protected structures. Facilities where direct access to soil in close proximity to cathodically protected structures is present, and where electrical connections to cathodically protected structures can be conveniently accomplished, need not have separate dedicated cathodic protection test stations.

2. The cathodic protection system shall be operated and maintained in accordance with subsection 62-761.700(2), F.A.C.

3. Any field-installed cathodic protection system shall be designed and installed by or under the direction of a Corrosion Professional.

4. Cathodic protection is not required for any field-fabricated primary storage tank that has been installed within a former single-walled storage tank as a means to upgrade to secondary containment. However, the former single-walled storage tank, which now becomes the secondary containment must be protected from corrosion.

5. Supplemental anodes that are added to a sti-P3 tank can be installed according to STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs.

(d) Compatibility. The primary and secondary walls of storage tank systems shall be made of, or internally lined with, materials that are compatible with the regulated substance stored in the storage tank systems and with substances or conditions present in the environment. All storage tank systems containing blends of ethanol,

biodiesel, or other biofuels and additives shall be compatible with the regulated substances stored in the storage tank systems.

(e) All components of a storage tank system shall be installed in accordance with the manufacturer's instructions.

(f) All storage tank systems shall be installed in accordance with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070.; Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Process Piping, B31.3-2004, 2012 Edition, ASME International (founded as the American Society of Mechanical Engineers), Published by ASME, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900; and PEI/RP100-11. Storage tanks with field-fabricated internal secondary containment shall be installed in accordance with manufacturer's specifications, UL 1856, and NLPA 631, hereby adopted and incorporated by reference, and are available from the addresses given.

(g) A Certified Contractor shall perform the installation of storage tank systems containing pollutants, including tanks, integral piping (excluding drop tubes), overfill protection and spill containment equipment, internal release detection equipment, cathodic protection systems, secondary containment systems, and dispensers, if the installation of the storage tank system component disturbs the backfill, or where the integral piping is connected or disconnected during installation.

(h) Whenever storage tanks and/or integral piping are installed or relocated after the *(the effective date of the rule)*, Record Drawings ("as-builts"), signed and sealed by a professional engineer licensed in the state of Florida, shall be completed and maintained as a record in accordance with Rule 62-761.710, F.A.C. The as-built drawing shall include all construction and equipment design specifications including exact dimensions, geometry, and locations of the storage tanks and/or integral piping, of the work completed under contract, and any changes made to the original specifications during the construction process. As-built drawings are not required for tanks that are installed or retrofitted with internal secondary containment.

(2) Storage Tanks.

(a) All storage tanks at a facility shall have secondary containment and shall be constructed or installed to provide for interstitial monitoring of the entire storage tank.

(b) Fiberglass reinforced plastic double-walled tanks shall be constructed in accordance with the following document, Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference and available at the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(c) Cathodically protected double-walled steel tanks shall be:

1. Constructed in accordance with the following documents, or as applicable: Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, and External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and are available from the addresses given;

2. Constructed in accordance with the following document, sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given ; or

3. Constructed in accordance with the following document, STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given; or

4. Certified by a Nationally Recognized Testing Laboratory for any field-installed cathodic protection system, that these requirements are met, constructed and designed by a Corrosion Professional in accordance with the following document, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition, NACE International, Published by NACE International,

1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and is available from the address given.

(d) Double-walled steel tanks coated with a fiberglass reinforced plastic composite jacketed steel tanks shall be constructed in accordance with UL 58 and UL 1746, ACT-100® Specification for External Corrosion Protection of FRP Composite Steel USTs - F894, Rev. September 2011, Steel Tank Institute (STI), 944 Donata Court, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(e) Jacketed steel tanks shall be constructed in accordance with UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(f) Double-walled storage tanks that meet the above performance requirements, that are constructed of equivalent material, have an equivalent design, or are corrosion protected shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(g) Tanks shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(h) Double-walled storage tanks that have been removed and that are to be reinstalled at a different location shall:

1. Be recertified that all original warranties are confirmed by the original manufacturer or the manufacturer's successor, and be reinstalled in accordance with the requirements in this section; or

2. Be recertified by a professional engineer licensed in the state of Florida that the storage tank meets all applicable requirements of this section; and

3. Proof of recertification shall be provided to the Department and County prior to the start of installation. The storage tank shall be re-registered in accordance with subsection 62-761.400(1), F.A.C.

(3) Integral piping.

(a) All integral piping, including remote fill piping that is in contact with the soil shall have secondary containment; or

(b) All integral piping that transports regulated substances over surface waters of the state shall have secondary containment and shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials; or

(c) All integral piping that is not in contact with the soil shall meet the construction requirements in paragraphs 62-761.500(3)(d)2. through 4., F.A.C., shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials.

(d) Construction requirements.

1. Fiberglass reinforced plastic integral piping or other non-metallic double-walled integral piping installed in contact with the soil at a facility shall meet the requirements of Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.

2. Coated steel double-walled integral piping shall be constructed in accordance with ASME B31.3. In addition, steel integral piping in contact with the soil shall be cathodically protected in accordance with the following documents: Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070; Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906; and Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and available from the addresses given.

3. Metallic double-walled integral piping constructed of nonferrous materials such as copper shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, Piping Systems.

4. Integral double-walled piping constructed of other materials, design, or corrosion protection shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(e) Integral piping shall be installed with a slope to a low point monitoring system to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(f) Pressurized integral piping systems connected to dispensers shall be installed with shear valves or emergency shutoff valves in accordance with Section 6.3 of NFPA 30A, Requirements for Dispensing Devices.

These valves shall be designed to close automatically if a dispenser is displaced from its normal position. The valves shall be rigidly anchored independently of the dispenser. The valves shall be tested in accordance with PEI/RP1200-12 at the time of installation by a certified contractor to confirm that the automatic closing function of the valve operates properly and that the valve is properly anchored.

(g) All storage tanks located at an elevation that produces a gravity head on the dispenser or on integral piping positioned below the product level in the storage tank must be installed and maintained with an isolation block valve in accordance with Chapter 22.13 of NFPA 30, Tank Openings Other Than Vents, and located as close as practical to the storage tank. In addition, anti-siphon valves for suction and pressurized systems with dispensers that are subject to NFPA 30A, shall be installed and maintained in accordance with Section 11.2 of NFPA 30A, Marine Fueling - Storage. Storage tank systems without dispensers shall be installed with valves that will prevent the tanks from emptying if there is a leak or break in the integral piping.

(h) Pressurized integral piping systems connected to dispensers shall be installed with a method of leak detection that can detect a leak within one hour, and can include a mechanical line-leak detector or an electronic line leak detector, or another device registered in accordance with Rule 62-761.850(2)F.A.C.

(Ought to be in this section as well as Section 600 to make it clear to owners and operators)

(i) Storage tank systems using corrosion protection systems with vapor corrosion inhibitors that are registered in accordance with Rule 62-762.851(2), F.A.C. shall be designed and installed under the direction of a Corrosion Professional.

(Allows the use of VCI's for interstitial corrosion protection)

(4) Spill containment systems.

(a) Storage tank systems shall be installed with a spill containment system at each tank fill connection meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C..

(b) Fillbox covers shall be marked or the fill connection tagged in accordance with Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, hereby adopted and incorporated by reference, and is available from the address given, or with an equivalent method approved by the Department in accordance with subsection 62-761.850(1), F.A.C.

(c) Spill containment systems, including double-walled spill containment systems installed after the effective date of the rule, shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. Owners and operators of facilities with double-wall spill buckets installed before the effective date of the rule may perform an interstitial integrity test to demonstrate the tightness of the double-wall spill bucket. If the double-wall spill containment system passes the interstitial integrity test, a record shall be kept of the test and the owner or operator shall be exempted from the requirement of interstitial monitoring. The spill containment system can be operated as a single-wall spill containment system, provided it meets all the requirements of a single-wall spill containment system.

Compromise discussed at the 24 Jul 14 Public Workshop that meets DEP concerns and allows owners to demonstrate tightness then treat the spill bucket as single-wall. Owners choosing to install new double-wall systems do so knowing the additional requirements.

(5) Dispensers and dispenser sumps.

(a) The dispensers used for transferring fuels from storage tanks to vehicles or portable containers shall be installed and maintained in accordance with the provisions of NFPA 30 and Chapter 6, Fuel Dispensing Systems; Chapter 9, Operational Requirements; and Chapter 11, Marine Fueling of NFPA 30A.

(b) Dispensers shall be installed with a dispenser sump meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C. The dispenser sump shall extend beneath the union of the integral piping and the dispenser, including the shear valve, if applicable.

(c) Dispenser sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. The dispenser sump shall be capable of containing a release for the entire area beneath the dispenser.

(6) Piping sumps.

(a) Piping sumps shall meet the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and be registered in accordance with subsection 62-761.850(2), F.A.C. The sumps shall be designed, constructed, and installed to minimize water entering the sump.

(b) Piping sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(7) Overfill protection.

(a) Owners or operators shall ensure that the volume available in the storage tank is greater than the volume of regulated substances to be transferred to the storage tank before the transfer is made and shall ensure that any transfer is repeatedly monitored to prevent overfilling and spilling.

(b) Storage tank systems shall be equipped with an overfill device that:

1. Automatically shuts off flow to the storage tank when the storage tank is no more than 95% full;

2. Restricts flow to the storage tank when the storage tank is no more than 90% full and does not fill the storage tank beyond 95% capacity. Vent restriction devices such as ball float valves shall not be installed at facilities after *(the effective date of the rule)* unless the storage tank system meets the requirements of Section 7 of PEI/RP 100-11, UST Overfill Equipment Verification, Inspection and Testing; or

3. Alerts the transfer operator when the tank is no more than 90% full by triggering an alarm and does not fill the tank beyond 95% capacity.

(c) Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.

(d) Storage tank systems with capacities of 2000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser are exempt from overfill protection requirements provided that the tanks are never filled beyond 80% capacity.

(e) Overfill devices shall be registered in accordance with subsection 62-761.850(2), F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.500, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.510 Performance Standards for Category-A and Category-B Storage Tank Systems

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303-.3072 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.510, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.600 Release Detection Requirements Standards.

(1) General requirements.

(a) Storage tank systems shall have a method, or combination of methods, of release detection that:

1. Can detect a new release from any portion of the storage tank system;

(b) Any storage tank system without a method, or combination of methods, of release detection in accordance with this section, shall immediately provide a method of release detection, or immediately empty the storage tank system and place the affected system out-of-service, or close the system in accordance with subsection 62-761.800(2), F.A.C.

(c) Any component of a storage tank system with an interstice shall have a method of interstitial monitoring.

Interstitial monitoring can be performed with vacuum, pressure, hydrostatic (liquid-level sensing), sensors or probes, and visual release detection methods.

2. Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability to ensure that the device is functioning as designed; and

3. Meets the applicable performance standards in Rule 62-761.640, F.A.C. All manufacturer's instructions, and the performance claims and their manner of determination described in writing by the equipment manufacturer or installer shall be retained for as long as the storage tank system is used.

(b) A release detection response level shall be described in writing for each method or combination of methods of release detection used for a storage tank system.

(c) A release detection method shall be established and provided for all storage tank systems upon installation.

(d) Except as otherwise specified in this Rule ~~Rules 62-761.600-.640, F.A.C.~~, the release detection method or combination of methods used at a facility shall be performed at least once every a calendar month, but not exceeding 35 days, to determine if a release from the storage tank system has occurred.

(e) Visual inspections. At least once a month, but not exceeding 35 days, any component of a storage tank system that contains, transfers, or stores, or is designed to contain, transfer, or store pollutants that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of any component a storage tank, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances that reveals significant pitting, or cracking, splitting, blistering, delamination, signs of corrosion, structural damage, leakage, or other similar problems with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C., is considered a positive response. The positive response shall be recorded as part of the release

detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. Repairs shall be made in accordance with Rule 62-761.700, F.A.C. A monthly visual inspection is not required for any system component using an electronic release detection method, but piping and dispenser sumps must be visually inspected every six months and records kept of the visual inspection. At least once a month, but not exceeding 35 days, any storage tank and component of a storage tank that can be inspected visually shall be visually inspected in accordance with paragraph 62-761.640(2)(e), F.A.C. A visual inspection is not required for any system component that has a continuous or monthly electronic release detection sensor. Continuous electronic leak detection devices shall be inspected for proper operation on a monthly basis. Inspection may consist of visual observation or remote verification of proper operation.

(f) Electronic and mechanical release detection devices shall be:

1. Installed, calibrated, operated and maintained in accordance with the manufacturer's instructions and shall be designed and installed to provide service checks for operability to ensure that the device is functioning in accordance with subsection 62-761.700(3), F.A.C.; and

2. Registered in accordance with subsection 62-761.850(2), F.A.C., except that controllers or annunciators that are used to display leak detection test results are not required to be registered. A site suitability determination shall be performed for UST systems by December 31, 1998, in accordance with paragraphs 62-761.640(2)(a)-(d), F.A.C., for storage tank systems using groundwater or vapor monitoring wells for release detection. If the site suitability determination indicates that on-site conditions are unsuitable for external monitoring, another method of release detection must be used.

(g) Electronic release detection devices shall be inspected for proper operation at least once every calendar month, but not exceeding 35 days. A record or summary of the alarm history, sensor status and testing results related to potential releases shall be printed from any electronic release detection device or be provided to the department through electronic documentation. If the release detection system is not capable of printing records, a manual log shall be maintained of the alarm history, sensor status and testing results. Vapor monitoring plans shall be performed by December 31, 1998, for UST systems, in accordance with paragraph 62-761.640(2)(d), F.A.C., for storage tank systems using vapor monitoring for release detection.

(h) Release detection shall be constructed and installed so that groundwater, rainfall, or soil moisture will not render the release detection method used inoperable. Any component of a storage tank system with secondary containment shall have an interstitial monitoring method meeting the requirements of paragraph 62-761.640(3)(a), F.A.C.

(i) Storage tank systems that store fuel solely for use by emergency power generators are not required to comply with the release detection requirements of Rule 62-761.600, F.A.C. Pressurized piping, excluding bulk product piping, shall be equipped with a line leak detector that meets the standards of paragraph 62-761.640(4)(a), F.A.C. Gravity piping systems are exempt from this requirement.

(2) Storage Tanks.

(a) One or more of the following release detection methods shall be used:

1. Liquid level monitoring systems with electronic hydrostatic sensors. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid levels can not be maintained. Any alarm that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Vacuum monitoring. This method shall be able to detect incidents by determining changes in vacuum levels within the interstice by continuous monitoring of vacuum levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if vacuum levels can not be maintained. Any alarm that indicates that vacuum levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

3. Pressure monitoring. This method shall be able to detect incidents by using an inert gas and determining changes in pressure levels within the interstice by continuous monitoring of pressure levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if pressure levels can not be maintained. Any alarm that indicates that pressure levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

4. Electronic sensors in a normally dry interstice. This method shall be able to detect the presence of liquid in the interstice or monitoring low point and to provide immediate electronic notification with an audible or visual

alarm to the owner or operator if liquid is detected. Any alarm that indicates the presence of liquid, **other than condensate** is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

Clarification

5. Visually inspected liquid level monitoring systems. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir. Any visual observation that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

6. Visually inspected vacuum or pressure monitoring with gauges. This method shall be able to detect incidents by determining changes in vacuum or pressure levels within the interstice.

a. Vacuum or pressure readings shall be able to detect a 50% change from one month to the next, or any cumulative change of vacuum or pressure exceeding 50% of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge. Vacuum or pressure refreshment must be performed in accordance with manufacturer's specifications and the system's equipment registration in subsection 62-761.850(2), F.A.C. Any change indicated above is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

b. Liquid-filled gauges shall be calibrated using NIST traceable standards prior to initial operation, hereby adopted and incorporated by reference, and available at the address given. The gauges shall be operational at all times.

7. Visual monitoring of normally dry interstices. This method shall be able to detect the presence of liquid at a low point of the interstice. Any presence of groundwater or surface water, and/or regulated substances in the interstice is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

8. Visual monitoring of sumps. This method shall be able to detect the presence of liquid at a low point of the sump. The accumulation of water or condensation in the low point of the sump shall not interfere with the ability to detect regulated substances. **Any evidence of petroleum-stained containment surfaces, free product, or leaking of regulated substances from any part of a storage tank system secondary containment presence of regulated substances** in the sump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

This problem hasn't gone away, and if left unchanged, the "any presence" requirement could be interpreted by inspectors as a slight sheen from a couple of drops of fuel released when a fuel filter was changed. It would create incidents at nearly every facility in Florida). Does the Department want to get inundated with INF's?

(3) Integral piping with secondary containment.

(a) One or more of the release detection methods in subsection 62-761.600(2), F.A.C., shall be used.

(b) In addition, pressurized small diameter integral piping in contact with the soil shall be equipped with a release detection system that can detect a leak within one hour. One of the following methods shall be used:

1. Mechanical line leak detectors. Mechanical line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and restrict flow within one hour. Any instance where the mechanical line leak detector is restricting flow is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Electronic line leak detectors. Electronic line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and shut off power to the pump. Any instance where the electronic line leak detector has shut off power to the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. **Monthly release detection printed tapes from automatic tank gauges for electronic line leak detectors are not required to be kept as records to demonstrate compliance, but a positive response from an electronic line leak detector must be recorded and investigated in accordance with Rule 62-761.430, F.A.C.**

Another problem that isn't going away. Hess was granted an Alternate Procedure for this, and it should apply across the board for all facilities. This makes it clear that owners and operators of

electronic line leak detectors are not punished for having a more effective and environmentally friendly method of piping release detection than owners with mechanical line-leak detectors that are not as effective.

3. Electronic interstitial monitoring devices. Storage tank systems without line leak detectors, shall have electronic interstitial monitoring devices that are capable of detecting a release of ten gallons within one hour and shutting off the pump. Any instance where the monitoring device has shut off the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(4) Annual operability testing of release detection systems. All release detection devices shall be tested annually at intervals not exceeding 12 months to ensure proper operation. The test must either simulate an actual alarm condition or shall be conducted according to manufacturer's specifications, and shall include, at a minimum, a determination of whether the device operates as designed. Remote testing of the system can be performed by the manufacturer if the remote test is included in the third party certification by a Nationally Recognized Testing Laboratory.

(5) Records shall be kept for three years in accordance with Rule 62-761.710, F.A.C.

~~(j) Any storage tank system not provided with a method, or combination of methods, of release detection in accordance with this section, shall be closed in accordance with subsection 62-761.800(2), F.A.C., by the date upon which release detection is to be provided.~~

~~(k) Groundwater and vapor monitoring wells meeting the standards for external monitoring specified in paragraphs 62-761.640(2)(a) (d), F.A.C., that are no longer used for release detection, shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 2010. Wells not meeting these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are:~~

- ~~1. Used for contamination assessment purposes as specified in paragraph 62-761.600(2)(d), F.A.C.; or~~
- ~~2. Required by rules adopted by a County government in accordance with Section 376.317, F.S.~~

~~(2) By December 10, 1990, vehicular fuel petroleum storage tank systems of greater than 550 gallon capacity shall be provided with release detection. Release detection for all other storage tank and integral piping systems in contact with the soil shall be provided by December 31 of the year shown in Table RD.~~

TABLE RD

Year Storage Tank System Installed	Year Release	Detection Required		
Before 1970 or unknown	1990	1991	1992	1993
	P/RD			
1970-1974	P	RD		
1975-1979	P		RD	
1980-1990	P			RD

P = Installation of Release Detection for Pressurized Piping

RD = Installation of Release Detection for Tanks and Suction Piping.

~~(3) Effective December 31 of the applicable year specified under the schedule in Table RD, any groundwater monitoring plan or spill prevention control and countermeasure plan implemented before December 22, 1990, shall be capable of detecting the leak rate or quantity specified in paragraph 62-761.640(1)(a), F.A.C.~~

~~(4) UST systems that store fuel solely for use by emergency power generators are not required to comply with the release detection standards of Rules 62-761.600 through 62-761.640, F.A.C.~~

~~(5) Monitoring wells shall meet the standards of subsection 62-761.640(2), F.A.C., by December 31, 1998. Wells that do not meet these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are required by a rule that was adopted by a County government in accordance with Section 376.317, F.S. However, if a monitoring well is used solely for the purpose of monitoring petroleum contamination in accordance with Chapter 62-770, F.A.C., the well does not have to be closed until the completion of the site rehabilitation pursuant to Chapter 62-770, F.A.C. Covers of leak detection monitoring wells redesignated as site assessment wells by the facility owner or operator shall be colored black with a white circle within the black background. The diameter of the white circle shall be approximately one half the diameter of the manhole cover, or approximately four inches.~~

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.3072 FS. History—New 12-10-90, Formerly 17-761.600, 62-761.610, 62-761.640 Amended 7-13-98, 6-21-04.

62-761.610 Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.610, Amended 9-30-96, 7-13-98, 6-21-04, Repealed.

62-761.640 Performance Standards for Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History–New 12-10-90, Formerly 17-761.640, Amended 9-30-96, 7-13-98, 6-21-04, Repealed.

Substantial rewording of Rule 62-761.700, F.A.C., follows. See Florida Administrative Code for present text.

62-761.700 Repairs, Operation and Maintenance of Storage Tank Systems.**(1) Repairs.**

(a) Repairs shall be performed, as necessary, if any component of a storage tank system has:

1. A release or discharge or contributed to a release or discharge of a regulated substance; or
2. An operational or structural problem that could potentially result in a release or discharge, or lead to the presence of groundwater or surface water in the interstice of a double-walled storage tank or integral piping.

(b) The storage tank system shall immediately cease operating, dispensing, and/or accepting deliveries, if:

1. Repairs are required for any component of a storage tank system; and
2. The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shut down of electrical generating units serviced by the storage tank system.

(c) Repairs shall be made:

1. To restore the structural integrity of the storage tank system and in a manner that will prevent releases or discharges from structural failure or corrosion for the remaining operational life of the storage tank system; and

2. In accordance with manufacturer's specifications and applicable reference requirements.

(d) If repairs are needed for any primary or secondary tank or piping system walls, or any interstitial spaces of storage tank system components, the repaired components shall be integrity tested for liquid tightness before being placed back into operation.

(2) Cathodic protection.

(a) Cathodic protection systems shall be operated and maintained to provide continuous corrosion protection to the metal components of those portions of the storage tank and integral piping in contact with the soil or within metallic interstitial spaces using vapor corrosion inhibitor technologies.

(Recommend adding this for a potential use of vci's. Otherwise, it would limit the use to components in contact with the soil.)

(b) Inspection and testing requirements.

1. Storage tank systems equipped with cathodic protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year, or every three years for factory-installed (galvanic) cathodic protection systems, thereafter in accordance with the criteria contained in NACE International Standards SP0169-2007 and SP0285-2011, or STI R051-06 Cathodic Protection Testing Procedures for sti-P3® UST's (R051), as applicable, hereby adopted and incorporated by reference, and available at the address given. All cathodic protection systems shall either have permanent test stations for soil-to-structure potential measurements or use temporary field test stations for required testing in accordance with this subparagraph.

2. Storage tank systems with impressed current systems shall be inspected at intervals not exceeding two months. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 1440 hours in one year shall be immediately taken out-of-service and within 30 days, and assessed by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria.

(c) Records of the continuous operation of impressed current systems and all cathodic protection inspection, testing, and repair activities shall be maintained in accordance with paragraph 62-761.710(3)(c), F.A.C.

(d) Storage tank systems with cathodic protection systems that have been determined by a Corrosion

Professional that the cathodic protection system cannot achieve or maintain protection levels in accordance with the design criteria shall:

1. Be repaired within 90 days in accordance with subparagraph 62-761.700(2)(b)1., F.A.C., or
2. Be closed in accordance with subsection 62-761.800(2), F.A.C.

(3) Operation and maintenance.

(a) Integrity testing.

1. The integrity of secondary containment systems and interstitial spaces shall be verified by performing an interstitial or containment integrity test in accordance with manufacturer's specifications or PEI/RP1200-12. Secondary containment systems that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection are exempt from this requirement. The interstitial or containment integrity tests shall be performed in accordance with the following schedule:

- a. Double-walled storage tanks and piping shall be tested at the time of installation or repair;
- b. The interstice of double-walled integral piping within five years of (the effective date of the rule), and every five years thereafter for all piping installed after the effective date of the rule;

Piping manufacturers can design and manufacture systems that will allow testing. Some older systems are difficult and costly to integrity test, and there are no manufacturer's instructions for post-installation testing.

c. Below-grade piping sumps within five years of (the effective date of the rule), and every five years thereafter;

d. Below-grade dispenser sumps within five years of (the effective date of the rule), and every five years thereafter;

e. Double-walled spill containment systems within five years of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter, unless exempted in accordance with Rule 62-761.500(4)(c), F.A.C.;

Allows the owners that tested to treat their 2W buckets as single-wall

f. Single-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter; and

g. Single-walled storage tanks or integral piping installed within sumps are exempt from this requirement.

2. If using hydrostatic testing for the interstitial or containment integrity test, it shall be performed by filling the secondary containment system with water to a marked level four inches above the highest penetration of the side wall of the containment equipment, with the exception of spill containment systems which shall be filled to a level within 1.5 inches of the top of the bucket. The secondary containment system shall be deemed tight if the water level remains stationary for a three hour period.

3. Any integrity test that indicates that the component is not tight shall be reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(b) Water removal.

1. Spill containment systems, interstitial spaces, dispenser sumps, and piping sumps shall be maintained to provide access for examination and water removal. Water in excess of one inch in depth, or any regulated substance collected in secondary containment, spill containment systems, or in piping sumps and dispenser sumps shall be removed within 72 hours of discovery and be either reused or properly disposed.

2. Petroleum Contact Water. Petroleum contact water from storage tank systems shall be managed in accordance with Chapter 62-740, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 403.091?, 489.133 FS. History--New 3-12-91, Formerly 17-761.700, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.710 Recordkeeping.

(1) All records shall be dated, maintained in permanent form, and available for inspection by the Department or County. If records are not kept at the facility, they shall be made available at the facility or another agreed upon location upon five working days of receipt of the Department's request notice. Site access to the facility shall be provided for compliance inspections conducted at reasonable times.

(2) Records of the following are required to be kept for three years:

(a) Measurements and reconciliations of inventory, as applicable;

(b) Repair, operation, and maintenance records;

(c) All release detection results, including electronic test results, regardless of the frequency, and monthly visual inspections performed in accordance with paragraph 62-761.600(1)(e) 62-761.640(2)(e), F.A.C. The

presence of a regulated substance's odor, sheen, or free product shall be recorded for each sampling event;

(c)(d) All test data and results gathered during annual operability tests and integrity tests Release detection response level descriptions;

(d)(e) A copy of all test data and results gathered during tightness tests, pressure tests, and breach of integrity tests, and the name and type of the test approved under Rule 62-761.850, F.A.C.;

(f) ~~Certification of Financial Responsibility on Form 62-761.900(3);~~

(g) Records of the types of fuels stored per tank; and

(h) ~~The repair or replacement of gaskets, valve packings, valves, flanges, and connection/disconnection fittings for bulk product piping if the repair or replacement is performed in response to a discharge or loss of regulated substances.~~

(3) Records of the following, generated after July 13, 1998, shall be maintained until for the life of the storage tank system closure:

(a) Manufacturer's instructions for operation, maintenance, and testing for release detection equipment Results of internal inspections and non-destructive testing;

(b) ~~Any performance claims for release detection equipment described in writing by the equipment manufacturer or installer;~~

(e) Records of storage tank system installations, replacements, recertifications, and upgrades;

(c)(d) Records of installation, maintenance, inspections, and testing of corrosion and cathodic protection systems in accordance with NACE and STI standards;

Allows for VCI technologies

(e)(f) Record drawings ("as-builts") as specified in paragraph 62-761.500(1)(i), F.A.C. Site suitability determinations in accordance with subsection 62-761.640(2), F.A.C.;

(f)(g) A copy of all INFs, and the results of all incident investigations as specified in Rule 62-761.430, F.A.C. Vapor monitoring plans and all records kept pursuant to the plan;

(g)(h) ~~A copy of all DRFs Closure assessment reports if the location continues as a facility; and~~

(h) A copy of all Closure Report Forms, if the location continues as a facility ~~Verification from a Certified Contractor of the existence of a single check valve beneath the suction pump for suction piping systems.~~

(i) Records to demonstrate financial responsibility shall be maintained until storage tank system closure if no contamination has been reported or if no Site Rehabilitation Completion Order (SRCO) has been issued pursuant to 62-780, F.A.C.

(4) The Department strongly encourages that all records relating to financial responsibility be maintained permanently.

Rulemaking Specific Authority 376.303, 376.322(3), 403.091 FS. Law Implemented 376.303, 376.322 FS. History—New 12-10-90, Formerly 17-761.710, Amended 9-30-96, 7-13-98, ~~Repromulgated~~ 6-21-04, _____.

62-761.800 Out-of-Service and Closure Requirements.

(1) Out-of-service storage tank systems.

(a) General.

1. Storage tank systems that are taken out-of-service, as required in this subsection as defined in subsection 62-761.200(40), F.A.C., shall continue to be maintained in accordance with this Chapter unless otherwise noted herein.

2. Facility owners and operators of out-of-service storage tank systems shall:

a. Continue to operate and maintain corrosion protection in accordance with subsection paragraph 62-761.700(2)(1)(b), F.A.C.;

b. ~~Perform external release detection for sites without contamination, as applicable, every six months in accordance with provisions of subsection 62-761.640(2), F.A.C.;~~

c. Leave vent lines open and functioning;

~~cd. Remove all regulated substances so that no more than one inch in depth or 0.3 percent by weight of regulated substances remains in the storage tank Empty the system and cap or secure all lines, pumps, manways, and ancillary equipment, as applicable; and~~

de. Secure or close off the system to outside access.

32. Facility owners and operators of out-of-service storage tank systems shall monitor the interstice and the liquid level in the storage tank annually but not to exceed 12 months. Records of these inspections shall be maintained in accordance with subsection 62-761.710(2), F.A.C. In the event that liquid in excess of one inch, or 0.3% by weight, in the storage tank or any liquid, other than condensate, in the interstice is discovered, facility

owners and operators must follow the procedures for incidents pursuant to Rule 62-761.430, F.A.C. If the storage tank system is required to be upgraded during the time that it is out of service, it shall be upgraded or replaced in accordance with this chapter before it is returned to service.

43. Release detection device annual operability testing, containment and interstitial integrity testing, and annual overfill protection device testing are not required while the system is properly out-of-service. All afore-mentioned testing shall be up-to-date in accordance with this Chapter and indicate proper operation before adding regulated substances to the storage tank system. In addition, storage tank systems installed after *(the effective date of the rule)* that have been out-of-service for more than 730 days shall perform interstitial integrity testing of the storage tank and integral piping before adding regulated substances to the storage tank system. Systems with secondary containment installed and operated in accordance with this chapter may remain in a continuous out of service status for ten years. After this period, the system shall be returned to service or closed in accordance with subsection 62-761.800(2), F.A.C.

54. Storage tank systems with secondary containment shall only be designated as out-of-service for a maximum of ten continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with subsection 62-761.800(2), F.A.C. Tightness, pressure, or other tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., as applicable, on any systems being returned to service.

(b) Before being returned to service, the following tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., for systems that are taken out of service for more than 180 days:

1. A tightness test for single walled systems; or
2. A breach of integrity test for double walled Category C systems.

(c) Single walled systems that are taken out of service shall not be kept out of service longer than two years for corrosion protected systems or one year for unprotected bare steel systems. After the end of these time periods, the systems shall either be upgraded or permanently closed.

(2) Closure of storage tank systems.

(a) The following storage tank systems must be closed within 90 days in accordance with the provisions of this subsection: General.

1. A storage tank system that fails to meet or is not modified to meet the Storage Tank System requirements of Rule 62-761.500, F.A.C. Closure of storage tank systems shall be performed by:

- a. Removing all liquids and accumulated sludges;
- b. Disconnecting and capping, or removing, all integral piping. Manways shall be secured to prevent access;
- c. Closing the storage tank system in accordance with paragraphs 62-761.800(2)(b), F.A.C., as applicable; and
- d. Conducting a closure assessment in accordance with subsection 62-761.800(3), F.A.C.

2. A storage tank system that requires repair pursuant to Rule 62-761.700, F.A.C., but cannot be repaired to operate in accordance with the requirements of this Chapter shall be taken out-of-service. If it cannot be repaired within 365 days after being taken out-of-service, it shall be permanently closed. After closure, storage tank systems may be used to store materials or substances other than regulated substances in accordance with all applicable Department reference standards, (for example, API 1604). Owners and operators are advised that other federal, state, or local requirements may apply to these activities.

3. Monitoring wells associated with closed systems that are not being used for release detection or site assessment purposes shall be closed in accordance with paragraph 62-761.600(1)(k), F.A.C.

(b) Closure of storage tank systems shall be performed by: Unmaintained systems shall be permanently closed within 90 days of discovery.

1. Conducting a Closure Integrity Evaluation as defined in subsection 62-761.200(8), F.A.C., and completing the UST Closure and Investigation Report Form 62-761.900(7), hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>, in accordance with subsection 62-761.800(3), F.A.C.

2. Removing by a Certified Contractor or disconnecting and capping all integral piping;

3. Removing and disposing of a storage tank by a Certified Contractor, or in-place closure by filling the storage tank with a solid inert material of sufficient density to prevent a structural collapse of the closed storage tank, which shall be in accordance with the following documents hereby adopted and incorporated by reference, and available from the addresses given. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, and Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C). In lieu of in-place closure or removal, a storage

tank may be used to store liquids other than regulated substances in accordance with API RP 1604. Owners and operators are advised that other federal, state, or local requirements apply that regulate these activities; and

4. Properly closing monitoring wells associated with closed systems that are not being used for site assessment purposes;

(c) The removal and disposal of all liquids and accumulated sludges may be required according to other local, state, and federal requirements. System removal, closure in place, and disposal shall be performed:

1. In accordance with API RP 1604 and NFPA 30; and

By a Certified Contractor if the system is removed from the ground, unless it is closed in place by filling it with a solid inert material of sufficient density to prevent a structural collapse of the closed system.

(3) Closure Integrity Evaluation and Closure Report Form Requirements Closure assessment of storage tank systems.

(a) Closure Integrity Evaluation. At time of closure, replacement, installation of secondary containment, or change in service from a regulated substance to a non-regulated substance, an assessment shall be performed to determine if a discharge from the system or system components has occurred.

1. A Closure Integrity Evaluation as defined in subsection 62-761.200(8), F.A.C., must be performed no more than 45 days prior to closure, replacement, or change in service from a regulated substance to a non-regulated substance for all double-walled storage tanks, double-walled integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil. If a Site Rehabilitation Completion Order (SRCO) or a Monitoring Only Plan (MOP) Approval Order has been issued by the Department for a contaminated area of a site, a closure assessment shall be performed for any subsequent storage tank system removal, replacement, or installation of secondary containment.

2. A Closure Integrity Evaluation requires a visual assessment of the interstitial space of double-walled tanks, integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil to determine if there are any products or pollutants or any water other than condensate present within the interstice. Other methods approved by the manufacturer or the Department such as vacuum, pressure, or inert gases may be used instead of visual observations. Tanks, pipes, or other system components in contact with soil at any site are subject to closure assessment requirements.

3. A Closure Integrity Evaluation for single-walled piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil requires a hydrostatic test or another test approved by the manufacturer.

4. A failed Closure Integrity Evaluation requires the reporting of the failed evaluation as an incident in accordance with subsection 62-761.405(3), F.A.C., and the investigation of the incident in accordance with subsection 62-761.430, F.A.C. If soil and/or groundwater sampling is necessary to determine whether a discharge has occurred, then an investigation shall be conducted in accordance with Form 62-761.900(7), UST Closure and Investigation Report Form.

5. The County must be provided with a copy of the Closure Integrity Evaluation report as part of the notification process pursuant to subsection 62-761.405(2), F.A.C. At a minimum, the Closure Integrity Evaluation report shall include the name of the third party inspection or testing company conducting the evaluation, a description of the storage tank system or system components that are being closed, the date of the evaluation(s) conducted, a description of the evaluation conducted along with the results, and a conclusion based on the results as to whether an incident has occurred.

6. In lieu of conducting a Closure Integrity Evaluation, the owner or operator may conduct a site assessment in accordance with 62-780.600, F.A.C. The owner or operator who fails to conduct a Closure Integrity Evaluation before the storage tank system or system component has been removed or closed in-place, shall conduct a site assessment in accordance with 62-780.600, F.A.C.

(b) Underground Storage Tank Closure and Investigation Report Form. A Closure Report Form is always required for storage tanks, integral piping, piping sumps, dispenser sumps, and spill containment systems, shall be completed at the time of closure, replacement, or change in service from a regulated substance to a non-regulated substance, and shall be submitted in writing or electronic format to the County within 60 days of completion of the closure, replacement, or change in service from a regulated substance to a non-regulated substance. A closure assessment is not required for:

1. Sites with documented contamination requiring a site assessment in accordance with Chapter 62-770, F.A.C., including those that are eligible for the Early Detection Incentive Program (EDI), the Florida Petroleum Liability and Restoration Insurance Program (FPLRIP), and the Petroleum Cleanup Participation Program (PCPP), pursuant to Sections 376.3071 and 376.3072, F.S. Nevertheless, documentation of procedures followed and results obtained during closure shall be reported in a Limited Closure Summary Report, Form 62-761.900(8), and in accordance with Section A of DEP's "Storage Tank System Closure Assessment Requirements";

2. ~~Systems initially installed with secondary containment, provided that no unexplained positive response of an interstitial release detection device or method occurred during the operational life of the system, or the secondary containment passed a breach of integrity test prior to closure; and~~

3. ~~Systems upgraded with secondary containment that have closed interstitial spaces, where a closure assessment was performed prior to installation of secondary containment, provided that the secondary containment passed a breach of integrity test in accordance with paragraph 62-761.640(3)(a), F.A.C.;~~

(c) ~~Closure assessment sampling and analysis shall be conducted according to DEP's "Storage Tank System Closure Assessment Requirements."~~

(d) ~~A closure assessment report shall be submitted to the County within 60 days of completion of any of the activities listed in paragraph 62-761.800(3)(a), F.A.C. The report shall include sample types, sample locations and measurement methods, a site map, methods of maintaining quality assurance and quality control, and any analytical results obtained during the assessment in accordance with DEP's "Storage Tank System Closure Assessment Requirements."~~

(e) ~~Persons are advised that contaminated soil excavated, disposed of, or stockpiled on site during the closure of a storage tank system is regulated by Chapter 62-770, F.A.C.~~

(4) Facilities closing single-walled storage tanks and/or piping, or tanks and/or piping that are in contact with the soil shall conduct a site assessment in accordance with Rule 62-780.600, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.30716 FS. History--New 12-10-90, Formerly 17-761.800, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.820 Incident and Discharge Response.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.820, Amended 9-30-96, 7-13-98, 6-21-04, Repealed.

62-761.850 Alternative Procedures Requirements and Equipment Registration Approvals.

(1) ~~Alternative procedure~~ requirements.

(a) Any person subject to the provisions of this Chapter may request in writing a determination by the Secretary or the Secretary's designee that any requirement of this Chapter shall not apply to a regulated storage tank system at a facility, and shall request approval of ~~alternative~~ ~~alternate~~ procedures or requirements.

(b) On Form 62-761.900(4), Alternative Requirement or Procedure Form, effective date, (the effective date of the rule), hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>. ~~The request shall set forth at a minimum the following information:~~

1. The specific storage tank system or facility for which an exception is sought;
2. The specific provisions of this Chapter 62-761, F.A.C., from which an exception is sought;
3. The basis for the exception;
4. The alternative procedure or requirement for which approval is sought;
5. Documentation that demonstrates that the alternative procedure or requirement provides an equivalent or greater degree of protection for the lands, surface waters or groundwaters of the State as the specific provisions of this Chapter from which an alternative procedure is sought ~~established requirement~~; and
6. Documentation that demonstrates that the alternative procedure or requirement is at least as effective as the established procedure or requirement.

7. If an ~~alternative~~ ~~alternate~~ procedure or requirement is not able to be sought under subparagraph 5. or 6., then documentation that demonstrates that the specific provisions of this Chapter from which the exception is sought imposes regulatory costs on the regulated entity that could be reduced through approval of a less costly regulatory alternative or requirement that provides a substantially equivalent degree of protection for the lands, surface waters, or groundwaters of the State as the established requirement.

(c) The Department shall issue an Order within 90 days of the receipt of a completed Alternative Requirement or Procedure Form, either: Within 60 days of the receipt of a request for approval of an alternative procedure or requirement, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(1), F.A.C., are met.

1. Approving the request with any conditions necessary to meet the requirements of paragraph 62-

761.850(1)(b), F.A.C.; or

2. Denying the request and stating the reason(s) the request does not make an adequate demonstration that the requirements of paragraph 62-761.850(1)(b), F.A.C., have been met.

(d) The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S. The Department's failure to timely issue an Order does not grant or approve the request. The Secretary or the Secretary's designee shall specify by order each alternative procedure or requirement approved for an individual storage tank system or facility in accordance with this rule or shall issue an order denying the request for such approval.

(e) The provisions of this Rule do not preclude the use of any other applicable relief provisions.

(2) Registration of storage tank system equipment and release detection systems and methods ~~Equipment approvals.~~

(a) Owners and operators shall verify at the time of installation that the storage tank system equipment and release detection systems and methods (including equipment and methods that were previously approved by the Department under the former Equipment Approval process) have been registered with the Department. Storage tank system equipment used in the State of Florida must have the approval of the Department before installation or use, with the exception of:

(b) Any storage tank system equipment installed after (the effective date of the rule) must be registered with the Department in accordance with this section. Upon discovery, non-registered storage system equipment installed after (the effective date of the rule) must be removed within 90 days, unless registration is obtained and listed within the 90 day time period.

(c) Equipment previously approved by the Department under the former Equipment Approval process and installed prior to (the effective date of the rule) can continue to be used regardless of later non-renewal or removal of registration from the list of registered storage tank system equipment, provided the equipment is still operating as designed.

(d) Only the storage tank system equipment as stated in this Chapter shall be registered by the equipment manufacturer using Form 62-761.900(3) Storage Tank System Equipment Registration Form, effective date, (the effective date of the rule), hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>. The following storage tank system equipment is exempt from registration:

1. Dispensers, dispenser islands, nozzles, and hoses;
2. ~~Monitoring well bailers;~~
3. Manhole and fillbox covers;
4. Valves and ball float valves;
5. Cathodic protection test stations;
6. ~~Metallic bulk product piping;~~
7. Small diameter integral piping not in contact with soil, unless the integral piping extends over or into surface waters; ~~and~~
8. Vent lines; ~~and~~
9. Gauges used for vacuum monitoring.

(e)(b) Registration ~~Equipment approval~~ requests shall be submitted to the Department in writing or electronic format with a demonstration that the equipment will ~~provide equivalent protection or~~ meet the appropriate performance requirements ~~standards~~ contained in this Chapter. Any approvals or denials received from other states or countries shall be included in the registration approval request to the Department.

(f)(e) A third-party demonstration by a Nationally Recognized Testing Laboratory shall be submitted in writing or electronic format to the Department with the application. The third-party demonstration shall provide:

1. A technical evaluation of the equipment;
2. Test results that verify that the equipment will function as designed; ~~and~~
3. A professional certification or determination that the equipment meets the performance requirements ~~standards~~ contained in this Chapter; ~~Rule 62-761.500, F.A.C.~~

4. Integrity test requirements and procedures;

5. Annual operability testing procedure for the equipment or release detection system or method; and

6. Copies of the manufacturer's instructions to maintain the manufacturer's warranty.

(g)(d) Release detection methods and tank and piping tightness and pressure testing methods must be registered in accordance with this subsection prior to being used. ~~Within 60 days of the receipt of a request for an~~

equipment approval, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(2), F.A.C., are met.

(h)(e) The storage tank system equipment and release detection systems and methods registered with the Department under this subsection must be renewed every five years. Failure to renew will result in removal from the equipment registration list. Any changes, improvements, or modifications to equipment beyond the scope of the original demonstration by the Nationally Recognized Testing Laboratory will require a renewal of the registration and a new demonstration from a Nationally Recognized Testing Laboratory pursuant to paragraph 62-761.850(2)(f), F.A.C. The Secretary or the Secretary's designee shall specify by order each equipment approval that is approved in accordance with this rule or shall issue an order denying the request for such approval. The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S.

(i) The Department shall place conditions upon the use of the storage tank system equipment and release detection systems and methods, remove equipment or methods from the list of registered storage tank system equipment, or not renew registration based on information submitted to the Department or if the equipment does not perform in field application as certified in the third party certification by a Nationally Recognized Testing Laboratory.

(3) Registration of Operator Training Providers

(a) Owners and Operators must verify that providers of training required under 62-761.350 F.A.C. (including training which was previously approved by the Department under the former approval process) have been registered with the Department.

(b) Training previously approved by the Department prior to can continue to be used until one year after the (the effective date of the rule).

(c) Registration of vendor's requests shall be submitted to the Department in writing or electronic format with a demonstration that meets the appropriate training contained in this Chapter. Any approvals or denials received from other states or countries shall be included in the registration request to the Department.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.850, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.900 Storage Tank Forms.

The forms used by the Department in the Storage Tank System Program are adopted and incorporated by reference in this section. The forms are listed by form rule number, which is also the form number, and with the subject title, and effective date. Copies of forms are available may be obtained by writing to the Administrator, Storage Tank Regulation Section, Florida Department of Environmental Protection, Division of Waste Management, 2600 Blair Stone Road, M.S. 4500 4525, Tallahassee, Florida 32399-2400, or: www.flrules.org/Gateway/reference.asp?No=Ref-000###, or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(1) Form 62-761.900(1) Discharge Report Form, (the effective date of the rule) July 13, 1998.

(2) Form 62-761.900(2) Storage Tank Facility Registration Form, (the effective date of the rule) July 13, 1998.

(3) Form 62-761.900(3) Storage Tank System Equipment Registration Form, (the effective date of the rule) Certification of Financial Responsibility, July 13, 1998.

(4) Form 62-761.900(4) Alternative Requirement or Procedure Form, (the effective date of the rule) July 13, 1998.

(5) Form 62-761.900(5) Underground Storage Tank Installation and Removal Form for Certified Contractors, (the effective date of the rule) July 13, 1998.

(6) Form 62-761.900(6) Incident Notification Form, (the effective date of the rule) July 13, 1998.

(7) Form 62-761.900(7) Underground Storage Tank Closure and Investigation Report Form, (the effective date of the rule) Monthly Statistical Inventory Reconciliation (SIR) Report, July 13, 1998.

(8) Limited Closure Summary Report Form, July 13, 1998.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.900, Amended 9-30-96, 7-13-98, Repromulgated 6-21-04, _____.

CHAPTER 62-761 UNDERGROUND STORAGE TANK SYSTEMS

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62-761.100 Intent.

(1) The purpose of this Chapter is to provide requirements standards for the registration, construction, installation, operation, maintenance, repair, closure, and disposal of underground storage tank systems that store regulated substances, in order and to minimize the occurrence and environmental risks of releases and discharges. This Chapter provides requirements standards for underground storage tank systems having individual storage tank capacities greater than 110 gallons.

(2) No change.

(3) Site access to the facility and individual storage tank system or system components shall be provided for compliance inspections conducted at reasonable times. Facility owner or operator shall provide the Class A or B Operator designated pursuant to Rule 62-761.350, F.A.C., to unlock and open any covers, manways, and release detection equipment associated with the storage tank system or system component and demonstrate operational functionality of electronic equipment.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 403.091 FS. History—New 12-10-90, Formerly 17-761.100, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.200 Definitions.

All words and phrases defined in Sections 376.301 and 376.79, F.S., shall have the same meaning when used in this chapter unless specifically stated otherwise in this chapter. See Sections 376.301 and 376.79, F.S., for definitions of the following terms: “Contaminant (contamination shall mean the same as contaminant),” “Contaminated site,” “Department,” “Discharge,” “Facility,” “Flow-Through Process Tank,” “Hazardous substances,” “Operator,” “Owner,” and “Pollutants.” The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:~~The following words, phrases or terms used in this chapter, unless the context indicates otherwise, shall have the following meaning:~~

(1) No change

(2) “Biofuel” means fuel produced from renewable resources especially, but not limited to, organic feedstocks such as plant biomass, vegetable oils, animal fats and treated municipal and industrial wastes. “AST” means an aboveground storage tank.

(3) “Bulk product piping” means on-site integral piping with an internal diameter greater than three inches that is utilized for transporting regulated substances.

~~(3)(4)~~ “Cathodic protection” means a method of preventing corrosion of a metal surface by making that

surface the cathode of an electrochemical cell through the use of devices such as galvanic anodes or impressed current.

(4)(5) “Cathodic Protection Tester” means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems and be certified as a NACE or STI cathodic protection tester.

(5)(6) “Certified Contractor” means a Pollutant Storage System Contractor certified by the Department of Business and Professional Regulation in accordance with Chapter 489, F.S. Except for the exemptions specified in Chapter 489, F.S., Certified Contractors are not required for activities that do not involve excavating or disturbing the backfill around underground storage tank systems. Certified Contractors are the only contractors authorized to perform the following activities for underground pollutant storage tank systems **if backfill is disturbed:**

(a) Installation of:

1. Underground storage tanks or integral piping, excluding drop tubes;
2. Overfill protection and spill containment;
3. Secondary containment;
4. Internal release detection devices;
5. Cathodic protection systems; and
6. Dispenser sumps ~~liners~~ when the integral piping is connected or disconnected during the installation of secondary containment.

(b) Removal of tanks or integral piping; and

(c) Internal lining of tanks.

(6) “Certified Contractors Form” means Underground Storage Tank Installation and Removal Form for Certified Contractors 62-761.900(5).

(7) “Chlorine” includes organic and inorganic compounds that are liquids at standard temperature and pressure that, when discharged, may release free chlorine (Cl₂) or chlorides (Cl⁻).

(8) “Closure Integrity Evaluation” is an assessment of storage tank system integrity that is performed by a third-party inspection or testing company at closure, replacement, or change in service from a regulated substance to a non-regulated substance. It is the evaluation of the tightness of the interstitial space of a double-walled storage tank, integral piping, piping sump, dispenser sump, and spill containment system; or the tightness of the containment of a single-walled piping sump, dispenser sump, or spill containment system.

(9) “Closure Report Form” means Underground Storage Tank Closure and Investigation Report Form 62-761.900(7). *Renumber*

(10)(8) “Compatible” means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the storage tank system under conditions likely to be encountered in the storage tank system.

(9) “Contamination” or “contaminated” means the presence of regulated substances in surface water, groundwater, soil, sediment, or upon the land, in quantities result in exceedances of applicable cleanup target levels specified in Chapter 62-770, F.A.C., where petroleum or petroleum products are present, or water quality standards in Chapter 62-3, 62-302, or 62-550, F.A.C.

(11)(10) “Corrosion Professional” means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal components of a storage tank system. Corrosion Professionals shall be accredited or certified by NACE International as a either a Cathodic Protection Specialist or Corrosion Specialist, or be a professional engineer licensed registered in the State of Florida.

(12) “Corrosion Protection” means the minimization of corrosion by the use of cathodic protection or by the use of vapor corrosion inhibitors.

This definition is still needed for STI P3 tanks and for Vapor Corrosion Inhibitor technologies that are being developed for UST activities. Keeping it in the rule does no harm, and will help provide a foundation for the aforementioned needs. This is an important factor for Zerust and STI, and may result in the need to challenge the rule if omitted.

(12)(11) “County” means a locally administered governmental program under contract with the Department to perform compliance verification activities at facilities with storage tank systems within the boundaries stipulated in the applicable contract.

(12) “Discharge” includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substance which occurs and which affects lands and the surface and ground

waters of the state.

(13) "Discovery" means:

(a) ~~Either actual knowledge or knowledge of facts that could reasonably lead to actual knowledge of the existence of an~~ previously unreported incident, release, or discharge, ~~or an unmaintained storage tank system; or~~

(b) ~~Discovery as specified in the Petroleum Contamination Site Cleanup Criteria subsection 62-770.200(10), F.A.C.~~

(14) "Dispenser" means a dispensing system that is used to transfer regulated substances ~~vehicular fuel~~ from a fixed point to a vehicle or portable container.

(15) "Dispenser liner" means a liner installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(15) "Dispenser sump" means a storage tank system component installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(16) "Dispensing system" means equipment that is used to transfer regulated substances from integral piping through a rigid or flexible hose or pipe to another point of use outside of the storage tank system.

(16)(17) "Double-walled" means a storage tank system or system component that has an outer tank wall, ~~or integral piping that has an outer wall that provides secondary containment of the primary tank or piping.~~

(17) "DRF" means Discharge Report Form 62-761.900(1).

(18)(18) "Empty" means all regulated substances have been removed so that no more than one inch in depth or 0.3 percent by weight of total system capacity of regulated substances remains in the storage tank system.

(19) "Existing contamination" means:

(a) The presence of free product or sheen on the groundwater;

(b) The presence of vapor levels in monitoring wells measured in accordance with DEP's "Guidelines for Vapor Monitoring" or by a Flame Ionization Detector or an equivalent instrument in excess of:

1. 500 parts per million total petroleum hydrocarbons for storage tank systems containing gasoline or equivalent petroleum products; or

2. 50 parts per million total petroleum hydrocarbons for storage tank systems containing kerosene, diesel or other equivalent petroleum products;

(c) Results of analytical tests on a groundwater sample that:

1. Exceed the cleanup target levels for petroleum products' contaminants of concern specified in Table I of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

(d) After July 13, 1998, results of analytical tests on a soil sample that:

1. Exceed the lower of direct exposure residential and leachability based on groundwater criteria cleanup target levels for petroleum products' contaminants of concern specified in Table II of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above.

(20) "Facility" means a nonresidential location containing, or that contained, any stationary tank or tanks containing, or that contained regulated substances, and that have, or had, individual capacities greater than 110 gallons for UST systems.

(19)(21) "Free product" means the presence of nonaqueous phase liquid in the environment a regulated substance in excess of 0.01 foot in thickness, measured at its thickest point, ~~floating on water, surface water or groundwater.~~

(22) "Hazardous substances" means those substances defined as hazardous substances in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(23) "Heating oil" means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces.

(24) "High viscosity" means a pollutant with a viscosity of 30 centistokes (cSt) and higher at 40 degrees Centigrade.

(25) "Hydraulic lift tank" means a tank that holds hydraulic fluid for a closed-loop mechanical system used to operate lifts, elevators, and other similar devices.

~~(20)(26)~~ “Hydrostatic test” means a containment integrity test for a storage tank system or storage tank system component that is performed in accordance with this Chapter using equilibrium and the pressure of liquids ~~to test the integrity of the tank or system component.~~

~~(21)(27)~~ “Impervious” means:

(a) A synthetic material or another material ~~registered~~approved in accordance with subsection 62-761.850(2), F.A.C., that is compatible with the stored regulated substance, and has a permeability rate to the regulated substance stored of 1×10^{-7} cm/sec or less; or,

(b) For concrete structures, a material that:

1. Meets the design and construction standards of Design Considerations for Environmental Engineering Concrete Structures, ACI 350.4R-04, 2004 and Control of Cracking in Concrete Structures (Reapproved 2008), ACI 224R-01, 2008, American Concrete Institute (ACI), published by ACI, 38800 Country Club Drive, Farmington Hills, Michigan 48331, hereby adopted and incorporated by reference ~~ACI 350R-89 and ACI 224R-89~~; or

2. Is applied to the concrete in accordance with Design, Installation, and Maintenance of Coating Systems for Concrete Used in Secondary Containment, SSPC-TU 2/NACE 6G197, July 2009, SSPC: The Coatings Society/NACE International, Published by NACE Reports, SSPC, 40 24th Street, 6th Floor, Pittsburgh, Pennsylvania 15222-4643, or NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and available at the addresses given ~~NACE International Standard RP0892-92. Standard Recommended Practice - Coatings and Linings over Concrete for Chemical Immersion and Containment Service SP0892-2007~~

~~(22)(28)~~ “In contact with the soil” means any portion of a storage tank system, that physically touches the soil or, if not in direct contact with the soil, is separated from the soil only by a casing, wrapping, or other material that is not impervious, integral piping connected to USTs, or any portion of a tank, that:

(a) ~~Physically touches the soil; or~~

(b) ~~Is not in direct contact with the soil, and is separated from the soil only by a casing, wrapping, or other material that is not impervious.~~

(c) ~~Those portions of integral piping that are elevated and that are not in direct contact with the soil are excluded from this definition.~~

~~(23)(29)~~ “Incident” is a condition or situation indicating that a release or discharge may have occurred from a storage tank system or system component.

(24) “INF” means Incident Notification Form 62-761.900(6).

~~(25)(30)~~ “In-service” means a storage tank system which contains greater than one inch or 0.3% by weight of regulated substance, or where the owner or operator has not reported to the Department pursuant to subsection 62-761.405(2), F.A.C., and that the tank is out-of-service pursuant to subparagraph 62-761.800(1)(a)2., F.A.C. ~~is being actively maintained and operated in accordance with this Chapter. Non compliance with any specific rule within this Chapter does not exclude the system from being considered “in service.” Subject to the above, a storage tank system is also considered to be in service if it:~~

(a) ~~Contains regulated substances or has regulated substances regularly added to or withdrawn from the system;~~

(b) ~~Is emptied solely for the purpose of cleaning, routine maintenance, or a change in product, for a time period not exceeding 45 days; or~~

(c) ~~Contains non regulated substances and is still maintained in an in-service status at the request of the owner or operator.~~

~~(26)(34)~~ “Integral piping” means on-site piping, originating or terminating at the regulated storage tank or tanks, that conveys regulated substances. Integral piping, not including vapor recovery lines and vent lines, includes all valves, elbows, joints, flanges, pumps, and flexible connectors, associated with the pipe originating at the storage tank up to the:

(a) Union of the piping with the dispenser~~dispensing system~~;

(b) Fill cap or fill valve; or

(c) Forwarding pump used for transferring regulated substances to a flow-through process tank or an industrial production or manufacturing point of use; ~~or~~

~~(d) First flange or connection within the loading rack containment area.~~

~~(27)~~ “Integrity test” means a determination of the liquid tightness of a storage tank system or system component using one of the following types of tests:

(a) “Interstitial integrity test” means an evaluation of the interstitial space in a double-walled storage tank system or system component using vacuum, pressure, liquid level monitoring systems, or equivalent test methods certified by a Nationally Recognized Testing Laboratory; or

(b) “Primary integrity test” means an evaluation of the liquid tightness of the primary tank or integral piping.

(c) “Containment integrity test” means an evaluation of the liquid tightness of hydrant pits, isolation valve pits, piping sumps, dispenser sumps, and spill containment systems.

(32) “Internal lining” means a material that is applied internally on USTs to protect the tank from internal corrosion.

(28) “Interstice” means the space between the primary and secondary wall of a storage tank system or system component.

(29)(33) “Interstitial monitoring” is a method of release detection in which the interstice is monitored. release detection method that is used to determine the presence of regulated substances or water between the primary and secondary containment. Interstitial monitoring can be performed within:

(a) A closed interstitial space between two steel or impervious barriers that are sealed, not open to the atmosphere, and designed to be tested for a breach of integrity of the interstitial space; or

(b) An open interstitial space between two steel or impervious barriers that are open to the atmosphere, and not designed to be tested for a breach of integrity of the interstitial space.

(34) “Liner” means an impervious material that meets the performance standards of paragraph 62-761.500(1)(d), F.A.C., that is used externally as a method of secondary containment.

(30)(35) “Maintenance” means the normal operational upkeep in accordance with Rule 62-761.700, F.A.C., to prevent a storage tank system or system component from releasing or discharging regulated substances.

(31)(36) “Nationally Recognized Testing Laboratory” means an international or national organization or governmental entity that can perform quantitative and qualitative tests on storage tank system equipment, evaluate the test data and equipment performance, and make determinations of the equipment’s capability of meeting the technical requirementsstandards of this Chapter. A Nationally Recognized Testing Laboratory shall have at least five years of professional storage tank system equipment testing experience. Nationally Recognized Laboratories include organizations such as Underwriter’s Laboratories, Carnegie Mellon Research Institute, Midwest Research Institute, Ken Wilcox Associates, Factory Mutual, and American Board of Engineering and Technology (ABET) Accredited Universities.

(32) “New” means a storage tank system or system component that is installed after (effective date of the rule).

(33)(37) “On-site” means on the same or geographically contiguous property as the facility regulated under this Chapter, that is under the same ownership or control, The property and which may be divided by a public or private right-of-way or an easement.

(34) “Operability test” means a test performed to determine if electronic and mechanical release detection and overfill protection devices or systems are functioning as designed and in accordance with manufacturers specifications.

(38) “Operational life” refers to the period from the start of installation of the storage tank system to the completion of the closure of the storage tank system in accordance with subsection 62-761.800(2), F.A.C.

(39) “Operator” means any person operating a facility, whether by lease, contract, or other form of agreement.

(35)(40) “Out-of-service” means a storage tank system or system component meeting the requirements in subsection 62-761.800(1), F.A.C., and is designated as an out-of-service system by the owner or operator to the Department on Form 62-761.900(2), F.A.C. with notification in accordance with Rule 62-761.405(2), F.A.C. that:

(a) Is designated as an out of service system by owner or operator notification to the Department on Form 62-761.900(2);

(b) Is empty as defined in subsection 62-761.200(18), F.A.C.; and

(c) Does not have regulated substances transferred into or withdrawn from the tank as specified in subsection 62-761.800(1), F.A.C., for a maximum time of:

1. Two years of being taken out of service for USTs; or

2. Ten years of being taken out of service for storage tank systems with secondary containment.

(36)(41) “Overfill” is an incident a release or discharge that occurs when a tank is filled beyond its capacity.

(37) “Overfill protection” is a device or method for preventing an incident, release, or discharge from a storage tank during filling of the storage tank system.

(42) “Owner” means any person as defined in Section 376.301(23), F.S., owning a facility.

(38)(43) “Pesticides” mean any substance or mixture of substances, as defined in 487.201, F.S., intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the Department of Agriculture and Consumer Services by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term “pesticide” does not

include any article that:

(a) Is a "new animal drug" within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act;
(b) Has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or

(c) Is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection, means all preparations, products, and substances included in the Department of Agriculture and Consumer Services' Rule 5E 2.002, F.A.C.

(44) "Petroleum" includes:

(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and

(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph 62-761.200(44)(a), F.A.C.

(45) "Petroleum product" means any liquid fuel commodity made from petroleum.

(a) Forms of fuel considered to be petroleum products include all fuels known or sold as:

1. Diesel fuel;
2. Kerosene;
3. Gasoline; and
4. Fuels containing mixtures of gasoline and other products.

(b) Forms of fuel excluded from this definition are:

1. Liquefied petroleum gas;
2. American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils;
3. Bunker C residual oils;
4. Intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher;
5. Asphalt oils; and
6. Petrochemical feedstocks.

(39)(46) "Pipe" or "piping" means any hollow cylindrical or tubular conveyance through which regulated substances flow.

(40)(47) "Piping sump" or "Submersible turbine pump sump" means a storage tank system component liner installed as secondary containment or a monitoring port at the top of a tank or lowest point in the integral piping to detect releases.

(48) "Pollutants" includes any "product" as defined in Section 377.19(11), F.S., pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(49) "Pressure test" means a test to determine the integrity of integral piping performed in accordance with subparagraph 62-761.640(5)(a)1., F.A.C.

(41)(50) "Pressurized piping" means piping through which regulated substances flow due to a pump that is not located at the dispenser/dispensing system.

(42)(51) "Product" as defined in Section 377.19(11), F.S., means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, used oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(52) "Registered Precision Tank Tester" means a contractor that performs tightness tests on USTs, and small diameter piping connected to USTs, that is registered by the Department of Business and Professional Regulation pursuant to Chapter 489, F.S.

(43) "Registration form" means Storage Tank Facility Registration Form 62-761.900(2).

(44)(53) "Regulated substance" means a liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), that is a pollutant or a hazardous substance, or any mixture of the two, when stored in a storage tank system UST.

(45)(54) "Release" means:

(a) A discharge; or

(b) A loss of regulated substances from a storage tank system or system component into the system's secondary containment.

(46)(55) "Release detection" means a method of:

(a) ~~Determining whether a discharge of regulated substances has occurred; or~~

(b) ~~detecting the presence of regulated substances within a storage tank system's or system component's secondary containment; and/or detecting other conditions or situations indicative of a release or discharge.~~

(56) ~~"Release detection response level" is the point of measurement, calculation, observation, or level that is established for each individual release detection device or method at which an investigation must be initiated to determine if an incident, release, or discharge has occurred.~~

(47)(57) ~~"Repair" means to restore or replace any defective or damaged parts of a storage tank system or system component; in accordance with Rule 62-761.700, F.A.C. Replacement of a non-defective part is not a repair.~~

(48)(58) **"Residential storage tank system"** means a storage tank system that services a non-commercial building that is used exclusively as a dwelling unit which means a structure that is used as a home or residence by one or more persons who maintain a common household, excluding transient occupancies, is located on property used primarily for dwelling purposes, and the storage and use of regulated substances in the tank is for residential purposes.

(49)(59) ~~"Secondary containment" means a release detection and discharge prevention system that meets the performance requirements standards of paragraph 62-761.500(1)(b), F.A.C., and includes dispenser sumps liners, piping sumps, spill containment systems, the outer wall of double-walled tanks and integral piping, or the liner systems, or single-walled tanks or piping systems that are contained within a liner or an impervious containment area surrounding single-walled tanks or integral piping.~~

(50)(60) ~~"Sheen" means a regulated substance less than or equal to 0.01 foot in thickness, measured at its thickest point, or visibly observed, floating on surface water, groundwater, or within secondary containment.~~

(61) ~~"Significant loss or gain" means the sum of losses and gains of a regulated substance over a 30 day or monthly period that exceeds:~~

(a) ~~For tanks with capacities between 111 and 2,000 gallons with an individual flow through less than 5,000 gallons during the previous 30 days:~~

1. ~~One percent of the tank capacity; or~~
2. ~~One percent of the total weekly output; or~~
3. ~~Fifty gallons, whichever is greatest; or~~

(b) ~~For tanks with capacities greater than 2000 gallons, or tanks with an individual flow through exceeding 5,000 gallons during the previous 30 days:~~

1. ~~One percent of the tank capacity; or~~
2. ~~One percent of the amount of product dispensed during the previous 30 days, plus 130 gallons, whichever is greatest.~~

(62) ~~"Small diameter piping" means integral piping with an internal diameter of three inches or less that is utilized for transporting regulated substances.~~

(51) ~~"Spill containment system" means a fixed component that is designed to prevent a discharge of regulated substances from the tank fill pipe.~~

(52)(63) ~~"Storage tank system" means a tank used to contain regulated substances, its integral piping, and all its components, including dispensers dispensing systems, spill containment systems devices, overfill protection systems devices, secondary containment systems, and any associated release detection equipment. A storage tank system is a "storage system" as defined in Chapter 376.301, F.S.~~

(53) **"Storage tank system component" or "system component" means any part (mechanical, electrical, and plumbing) of the storage tank system that is essential** for a tank system to operate properly and safely. This includes tanks, integral piping, sensors, sumps, pumps, including dispensers, spill containment systems, overfill protection systems, secondary containment systems, and any associated release detection equipment.

(54)(64) ~~"Suction piping" means piping through which regulated substances flow due to a pump located at the dispenser dispensing system.~~

(55)(65) ~~"Tank" means an enclosed stationary container or structure that is designed or used to store regulated substances, and the volume of which, including the volume of underground piping, is ten percent or more buried beneath the surface of the ground.~~

(66) ~~"Tightness test" means a test for an underground storage tank or its small diameter piping that is performed in accordance with subparagraphs 62-761.640(3)(f)1. and (4)(b), F.A.C., by a precision tank tester registered with the Department of Business and Professional Regulation under Chapter 489, F.S.~~

(67) ~~"UST" means an underground storage tank.~~

(68) ~~"UST Category A system" means a system containing pollutants that was installed on or before June 30, 1992, or a system containing hazardous substances that was installed before January 1, 1991.~~

(69) ~~"UST Category B system" means a system containing pollutants that was installed after June 30, 1992, or a~~

system containing hazardous substances that was installed on or after January 1, 1991, and before July 13, 1998.

(70) “~~UST Category C system~~” means a system that was installed on or after July 13, 1998. USTs that are removed and relocated on or after July 13, 1998 are considered Category C systems.

(71) “~~Unmaintained~~” means:

(a) ~~A storage tank system that was not closed in accordance with Department rules; or~~

(b) ~~An out of service storage tank system that is not returned to in-service status within:~~

1. ~~Two years of its being out of service for USTs; or~~

2. ~~Ten years of its being out of service for storage tank systems with secondary containment.~~

(72) “Upgrade” means the addition or retrofit of cathodic protection, internal lining, spill prevention, overfill protection, or secondary containment, to a storage tank system, or the installation of single wall corrosion resistant storage tanks, to improve the ability of the storage tank system to prevent discharges of regulated substances.

(56) “Vapor Corrosion Inhibitor” (VCI) means a chemical substance that volatilizes from a liquid or solid through vapor pressure and then moves freely within an enclosed airspace where the molecules preferentially adsorb onto metal surfaces and create a protective layer that inhibits the corrosive action of water, oxygen, acid gas molecules, and other corrosive agents with the metal surfaces.

Retention of this language is important in defining vapor-corrosion inhibitor technology that is currently being used in sump corrosion prevention efforts and for developing applications for USTs. It does no harm and will had value and understanding to tank owners and operators.

(73) “Vehicular fuel” means a petroleum product used to fuel motor vehicles, including aircraft, watercraft, and vehicles used on and off roads and rails.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 489.133 FS. History—New 12-10-90, Amended 5-4-92, 3-8-94, Formerly 17-761.200, Amended 9-30-96, 7-13-98, 6-21-04,_____.

Substantial rewording of Rule 62-761.210, F.A.C., follows. See Florida Administrative Code for present text.

62-761.210 Reference RequirementsStandards.

(1) Referenced requirements are available for inspection at the County Offices, and the Department of Environmental Protection’s District and Tallahassee Offices, and directly from the source.

(2) Titles of documents. References to documents listed in paragraphs 62-761.210(2)(a) through (j), F.A.C., below are made throughout this Chapter. Each document or part thereof is adopted and incorporated as a guideline only to the extent that it is specifically referenced in this Chapter. To the extent that the provisions contained in the following reference requirements conflict with this Chapter, the Department’s requirements as stated in this Chapter shall control.

(a) American Petroleum Institute (API), 1220 L Street, N.W. Washington, D.C. 20005, (202) 682-8000, or at <http://www.api.org/>.

1. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996;

2. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011;

3. Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996; and

4. Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006.

(b) ASME International (founded as the American Society of Mechanical Engineers), 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800) 843-2763, or at <http://www.asme.org/>; Process Piping, B31.3-2004, 2012 Edition.

(c) NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, (800) 797-6223, or at <http://www.nace.org/>;

1. Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition; and

2. Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition.

(d) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169-7471,

(800) 344-3555, or at www.nfpa.org/:

1. Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition;
2. Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks,

NFPA 30 (Annex C), 2012 Edition; and

3. Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition.

(e) National Institute of Standards and Technology (NIST), NIST, 100 Bureau Drive, Stop 1070, Gaithersburg, MD 20899-1070, (301) 975-NIST (6478), or at <http://www.nist.gov/index.html>.

(f) National Leak Prevention Association (NLPA), Route 2 Box 106A, Falmouth, Kentucky 41040, (702) 832-2260, or at <http://www.nlpa-online.org/>: **NLPA Standard 631, 1991.**

(g) Petroleum Equipment Institute (PEI), Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918) 494-9696, or at www.pei.org/:

1. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition; and

2. Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition.

(h) Steel Tank Institute (STI), 944 Donata Court, Lake Zurich, Illinois 60047, (847) 438-8265, or at <https://www.steeltank.com/>:

1. sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013; and

2. Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006;:

3. Cathodic Protection Testing Procedures for sti-P3® UST's, STI R051-06, (R051), Rev. January 2006;

4. Storage Tank Maintenance STI R111, (R111), Rev. July 2011;

5. Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, STI R972, Rev. January 2006;

6. Standard for Dual Wall Underground Steel Storage Tanks, F841, Rev. January 2006;

7. Specification for External Corrosion Protection of FRP Composite Steel USTs - ACT-100®, F894, Rev. September 2011;

8. Permatank®: Specification for Permatank®, F922, Rev. January 2013; and

9. Specification for External Corrosion Protection of Composite Steel USTs - ACT-100-U®, F961, Rev. September 2013.

10. Standard for Inspection, Repair, and Modification of Shop-fabricated Underground Tanks for Storage of Flammable and Combustible Liquids, STI SP131, Rev. August 2014.

This is a new standard that is important standard that has the support of Paul Miller from EPA.

(i) Underwriters Laboratories Standards (UL), 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847) 272-8800, or at www.ul.com/:

1. Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition;

2. Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition;

3. Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition; and

4. External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition.

5. Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems, UL 1856, 2013 Edition.

(j) U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001, (202) 512-1800, or at www.gpo.gov/:

1. Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST), Title 40, Part 280, July 2008; Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001; and

2. Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001.

(3) Applicability of Reference Requirements: Unless otherwise specified in this Chapter, facilities installed after June 30, 1992, and before (effective date of the rule) are subject to the Reference Requirements listed in the Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities installed after (effective date of the rule) shall comply with this subsection on or after (effective date of the rule).

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Amended 7-13-98, 6-21-04, _____.

62-761.300 Applicability.

(1) General Requirements.

~~(a) Underground storage tank systems:~~ The requirements of this Chapter, unless specified otherwise, apply to owners and operators of facilities, ~~and owners and operators of underground storage tank UST systems with individual storage tank capacities greater than 110 gallons, that contain or contained regulated substances. Unless otherwise specified in this Chapter, facilities installed after June 30, 1992, and before (effective date of the rule) are subject to the Reference Requirements listed in the Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities installed after (effective date of the rule) shall comply with this subsection on or after (effective date of the rule).~~

~~1. Vehicular fuel, subject to Chapter 17-61, F.A.C., after May 21, 1984;~~

~~2. Pollutants or hazardous substances after December 10, 1990; or~~

~~3. Regulated substances in unmaintained storage tank systems.~~

~~(b) This rule is applicable to non-residential facilities. Under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal UST rules (advisory information only not required by this Chapter).~~

~~(2) Exemptions: The following underground systems are exempt from the requirements of this Chapter:~~

~~(a) Any storage tank system storing any hazardous waste listed or identified under Subtitle C of the Resource Conservation and Recovery Act, or a mixture of such hazardous waste and other regulated substances;~~

~~(b) Any storage tank system regulated under the Toxic Substances Control Act (15 U.S.C. 2065);~~

~~(c) Any pesticide waste degradation system regulated under Chapter 62-660, F.A.C.;~~

~~(d) Storage tank systems used solely for temporary storage of mixtures of pesticides and diluent for reapplication as pesticides;~~

~~(e) Any storage tank system with a storage capacity of less than 30,000 gallons used for the sole purpose of storing heating oil for consumptive use on the premises where stored. "Heating oil" means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces;~~

~~(f) Any tank that contains asphalt or asphalt products not containing other regulated substances;~~

~~(g) Any storage tank system storing regulated substances that are solid or gaseous at standard temperature and pressure;~~

~~(h) Any storage tank containing Liquid Petroleum Gas;~~

~~(i) Any storage tank system that:~~

~~1. Contains a regulated substance at a concentration of less than two percent for pollutants and below the reportable quantities for hazardous substances under 40 C.F.R. 302; and~~

~~2. Was never previously regulated under Chapter 376.30 through 376.309, F.S. or this Chapter; contains small quantities (de minimus, as per 40 C.F.R. Section 280.10(b)(5)) of regulated substances;~~

~~(j) Any storage tank system that contains wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;~~

~~(k) Any septic tank system;~~

~~(l) Any stormwater or wastewater collection system, including oil-water separator tanks;~~

~~(m) Any surface impoundment, pit, pond, or lagoon;~~

~~(n) Any agricultural storage tank system of 550 gallons capacity or less that is used for agricultural purposes;~~

~~(o) Any residential storage tank system used solely for residential purposes. However, under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal underground storage tank rules;~~

~~(p) Any emergency spill or emergency overflow containment storage tank system that is emptied as soon as possible after use, and that routinely remains empty;~~

~~(q) Any flow-through process tank system. For industrial and manufacturing facilities, integral piping is considered to terminate at the forwarding pump or valve used to transfer regulated substances to process, production, or manufacturing points of use or systems within the facility;~~

~~(r) Any storage tank system, liquid trap, or associated gathering lines directly related to oil or gas production and gathering operations regulated by Chapter 377, F.S.; however, this exclusion does not apply to storage tanks that contain refined products;~~

~~(s) Any equipment or machinery that contains regulated substances for operational purposes, such as~~

hydraulic lift or fluid tank systems that hold hydraulic fluid for closed-loop mechanical systems used to operate lifts, elevators, and other similar devices and dielectric fluid (cooling and lubricating oil) systems used for electrical equipment and electrical equipment tank systems;

(r)(t) Any pipeline, piping and "break-out" tanks directly connected to the pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration, pursuant to Title 49, Parts 190-199 of the Code of Federal Regulations facilities;

(s)(u) Any storage tank system containing radionuclides or that is part of an emergency generator system for nuclear power generation at facilities regulated by the Nuclear Regulatory Commission under 10 C.F.R. Part 50 Appendix A;

(t)(v) Any ~~v~~Vapor recovery holding tanks and associated vapor recovery piping systems; or

(u) Any storage tank system containing biofuel that has a concentration of regulated substance of five percent or less by volume.

(v)(w) Any rail or tanker truck loading or unloading operations (loading racks) specified in Chapter 5 of NFPA 30.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.300, Amended 7-13-98, 6-21-04.

62-761.350 Operator Training and Certification (Reserved for Rulemaking)

62-761.400 Registration and Financial Responsibility.

(1) For installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction begins.

(b) A completed Form 62-761.900(2), Storage Tank Facility Registration Form (Registration Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the Department **no later than 30 days after prior to installation**. Copies of the Registration Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

Hess is concerned that there are many projects that will change timing/scope/etc. that will lead to tanks being registered and not installed, and/or registered improperly with the 30 days prior and prefers the current system of 30 days after.

(c) A completed Form 62-761.900(5), Underground Storage Tank System Installation and Removal Form for Certified Contractors (Certified Contractors Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the County no later than **21** days after installation of a storage tank system, **storage tank or integral piping**. Copies of the Certified Contractors Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or, www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(2) For change in service status or closure pursuant to Rule 62-761.800, F.A.C.:

(a) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days after completion of the change in service status.

(b) A completed Certified Contractors Form shall be submitted to the County in paper or electronic format no later than 10 days after removal of a storage tank system.

(3) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days of the following changes or discovery:

(3) Financial responsibility.

(a) Any change in the owner or operator of a facility or of a storage tank system.

(a) General requirements.

1. The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance. Financial responsibility is only required for tanks containing petroleum or petroleum products. Financial responsibility is the ability to pay for corrective action and third-party liability resulting from a discharge at the facility.

2. ~~The demonstration of financial responsibility shall be made by the owner or operator in accordance with C.F.R. Title 40, Part 280, Subpart H.~~

3. ~~Financial responsibility requirements for petroleum storage systems containing petroleum products may be supplemented by participation in the Florida Petroleum Liability Restoration and Insurance Program to the extent provided by Section 376.3072, F.S.~~

4. ~~Notwithstanding the owner's or operator's financial responsibility status, the owner or operator may, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.~~

(b) ~~Any change or correction in the information reported in the Registration Form. A change within the same blend of regulated substances should not be reported (e.g., regular unleaded to premium unleaded gasoline);~~

(b) ~~The minimum requirements for financial responsibility for USTs containing petroleum or petroleum products shall be the same as provided by C.F.R. Title 40, Part 280, Subpart H.~~

(c) ~~A change from a regulated substance to a non-regulated substance; and~~

(d) ~~The discovery of an unregistered storage tank system.~~

(1) ~~General registration requirements.~~

(a) ~~The owner or operator of any facility, or the owner or operator of a storage tank system shall register the storage tank system with the Department on Form 62-761.900(2).~~

(b) ~~A completed registration form shall be submitted to the Department no later than 30 days after regulated or hazardous substances are put into any new storage tank system.~~

(4)(2) ~~Registration fees.~~

(a) ~~Registration fees are due from the tank or facility owner or operator, as indicated in this section, for all registered storage tank systems required to be registered. Registration fees except for storage tank systems that have been properly closed in accordance with subsection 62-761.800(2), F.A.C., will no longer be due once any outstanding fees have been paid.~~

(b) ~~A registration fee of \$50.00 per tank or vessel shall be submitted for each initial registration of a storage tank system. The fee shall be paid within 30 days after receipt of an invoice by the Department.~~

(c) ~~A renewal fee of \$25.00 per tank shall be paid to the Department for each storage tank system not meeting the closure requirements of subsection 62-761.800(2), F.A.C. by July 1 each year.~~

(d) ~~A replacement fee of \$25.00 per tank shall be paid to the Department for each tank that is replaced for the purpose of facility upgrading, within 30 days after receipt of an invoice by the Department.~~

(e) ~~A late fee of \$20.00 per tank shall be paid to the Department for any renewal that is received after July 31.~~

(f) ~~Upon receipt of payment of all applicable initial registration fees and annual renewal fees, each facility shall receive a registration placard, pursuant to Section 376.3077, F.S. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the storage tank system is located. Posted on the Department website will be information regarding those motor fuel facilities who have not timely paid their registration fees. Each facility shall receive a registration placard upon payment of all applicable fees. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the tank is located.~~

(5) ~~Unless a current registration placard is displayed in plain view as required by paragraph 62-761.400(4)(f), F.A.C., no motor fuel may be deposited into a storage tank required to be registered pursuant to this Rule. Facility owners, operators and suppliers are each responsible for compliance with this provision.~~

(6) ~~Revocation of Registration Placard. (Reserved for Rulemaking)~~

(7) ~~Delivery prohibitions. (Reserved for Rulemaking)~~

Rulemaking Specific Authority 376.303, 376.322(2) FS. Law Implemented 376.303, 376.309, 376.323, 376.3077, 489.133 FS. History—New 12-10-90, Formerly 17-761.400, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.405 Notification.

(1) ~~For Installations:~~

(a) ~~For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction will begin.~~

(b) ~~Notification shall be received by the County in writing or electronic format between 1430 and 3045 days before installation of a storage tank system or system component unless the County agrees to a shorter time period.~~

As with the previous section, Hess is concerned that there are many projects that will change timing/scope/etc. that will lead to tanks being registered and not installed, and/or registered and notified improperly with the 30 days prior timeframe.

(c) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the installation work to confirm the date and time of the scheduled activities.

(2) For change in service status and closure:

(a) Notification shall be received by the County in writing or electronic format between 10 and 25 days before the initiation of the work unless the County agrees to a shorter time period.

(b) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the initiation of the work to confirm the date and time of the scheduled activities.

(c) Closure Integrity Evaluation reports prepared in accordance with paragraph 62-761.800(3)(a), F.A.C., must be provided to the County with the notification of closure or change in service from a regulated substance to a non-regulated substance.

(3) Notification of the discovery of an incident shall be made to the County in writing or electronic format on Form 62-761.900(6), Incident Notification Form (INF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 72 hours of the discovery or before the close of the county's next business day; however, an INF need not be submitted if, within 72 hours of discovery, the investigation of the incident in accordance with Rule 62-761.430, F.A.C., confirms that a discharge did or did not occur. Copies of the INF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(4) Notification of the discovery of a discharge shall be made to the County in writing or electronic format on Form 62-761.900(1), Discharge Report Form (DRF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 24 hours of the discovery or before the close of the County's next business day. Copies of the DRF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.450, 62-761.450, Amended 9-30-96, 7-13-98, 6-21-04.

62-761.420 Financial Responsibility.

(1) Financial responsibility is the ability to pay for cleanup of a discharge and third-party liability resulting from a discharge of petroleum or petroleum product at the facility.

(2) The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department for all storage tank systems until they are properly closed. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance.

(3) The demonstration of financial responsibility for storage tank systems shall be made available for inspection by the Department or the County and shall be in accordance with Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST) – Financial Responsibility, Title 40, Part 280, Subpart H, July 2008, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, hereby adopted and incorporated by reference, and is available from the address given or www.flrules.org/Gateway/reference.asp?No=Ref-000###.

(4) Notwithstanding the owner's or operator's financial responsibility status, the owner and operator shall, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.

(5) Financial responsibility mechanisms may not include choice of law and venue in favor of jurisdictions other than Florida.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.309, 403.091 FS. History--Formerly 62-761.400, Amended

62-761.430 Incidents.

(1) Incidents include:

(a) The following positive responses of release detection devices or methods described in Rule 62-761.600, F.A.C.:

1. Any visual inspection of any part of a storage tank system, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances that reveals significant pitting corrosion with more than a fifty percent loss of its original design thickness or that may adversely affect design integrity, or cracking, splitting, blistering, delamination, signs of corrosion, structural damage, leakage, or other similar problems with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C.;

This is another significant issue and potential deal-breaker with industry. The 50% value is quantifiable and supportable. Anything else is subjective with the potential for inspector bias or misinterpretation.

2. Any visual observation of regulated substances in a piping or dispenser sump;

3. Any alarm that indicates that liquid, vacuum, or pressure monitoring levels are not being maintained, or that liquid has been detected by a sensor in a normally dry interstice;

4. Any visual observation that indicates that liquid monitoring levels are not being maintained;

5. Any vacuum or pressure change of 50% from one month to the next, or any cumulative change of vacuum or pressure exceeding 50% of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge;

6. Any visual inspection that indicates the presence of groundwater or surface water, other than condensate, and/or regulated substances in the interstice;

7. Any instance where a mechanical line leak detector is restricting flow;

8. Any instance where an electronic line leak detector has shut off power to the pump;

9. Any instance where a monitoring device has shut off the pump; and

10. Liquid in excess of one inch in an out-of-service storage tank.

(b) A failed integrity test for the following components;

1. Double-walled storage tanks;

2. Double-walled integral piping;

3. Piping sumps;

4. Dispenser sumps; and

5. Spill containment systems.

(c) Other unusual operating conditions, such as the erratic behavior of product dispensing equipment, the sudden loss of product from a storage tank system, or any unexplained presence of groundwater or surface water in a tank or an interstitial space;

(d) The presence of odors of a regulated substance from surface water or groundwater, soil, basements, sewers and utility lines at a facility or in the surrounding area from which it could be reasonably concluded that a release or discharge may have occurred; and

(e) The loss of a regulated substance from a storage tank system, such as from an overflow, spills in the dispensing area exceeding 25 gallons on impervious surfaces, other than secondary containment, provided that the loss does not come in contact with pervious surfaces.

Makes it consistent with the intent section of the federal register for the 25 gallon requirement

(2) If an incident occurs at a facility, actions shall be taken within 24 hours of discovery to investigate the incident to determine if a discharge has occurred.

(3) Notification of the discovery of any incident shall be made to the County in writing or electronic format on an INF within 72 hours of the discovery or before the close of the County's next business day. However, an INF is not required to be submitted if, within 72 hours of discovery, the investigation of the incident confirms that a discharge did or did not occur.

(4) In cases where an INF is required to be submitted, the investigation shall be completed within 14 days of the date of discovery of the incident to determine if a discharge has occurred. Incident investigations that require additional time can be extended with the written approval of the Department or the County. However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system shall be placed out-of-service until such time the investigation is completed and resolved.

(5) At the end of the 14 day time period, or at the end of the alternate time period approved by the Department or the County to investigate the incident, either a DRF or a written confirmation and explanation that the incident was not a discharge, including documentation showing that contamination is the manifestation of a previously reported discharge, shall be submitted to the County in writing or electronic format.

(6) The removal of any spill or loss of regulated substance into secondary containment shall be initiated within three days of discovery, and completed within thirty days of discovery.

(7) If a discharge is discovered at any time during the incident investigation, the discharge shall be reported on

a DRF within 24 hours of discovery, or before the close of the next business day, and a discharge response shall be initiated in accordance with subsection 62-761.440(6), F.A.C.

(8) All incidents, regardless of whether an INF is required to be submitted, shall be documented and records kept until storage tank system closure in accordance with Rule 62-761.710, F.A.C. Test results or reports, which support the investigation findings, shall be maintained as records.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—Formerly 62-761.820, Amended .

62-761.440 Discharges.

(1) Discharges include:

(a) Laboratory analytical results of surface water or groundwater samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C.;

(b) Laboratory analytical results of soil samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C. that exceed the lower of direct exposure residential or leachability based on groundwater criteria cleanup target levels in Chapter 62-777, F.A.C.;

(c) The presence of free product, a visible sheen, sludge, or emulsion of a regulated substance, or a regulated substance that is visibly observed in soil, on or in surface water, in groundwater samples, on basement floors, in open drainage ditches, in open excavations or trenches, in subsurface utility conduits or vaults, or in sewer lines at the facility; and

(d) A spill or overflow of a regulated substance to a pervious surface.

(2) Upon discovery of a discharge, the owner or operator shall report the discharge to the County on a DRF within 24 hours or before the close of the County's next business day.

(3) Copies of laboratory analytical results that confirm a discharge shall be submitted to the County within 24 hours of receipt of the results or before the close of the next business day in writing or electronic format.

(4) A request for a retraction of a submitted DRF shall be submitted to the County or the Department in writing or electronic format if evidence is presented that a discharge did not occur at the facility.

(5) A DRF does not need to be submitted:

(a) For a discharge that was previously reported to the appropriate County or the Department on a DRF;

(b) For petroleum or petroleum product de minimis discharges in accordance with subsection 62-780.560(1), F.A.C., unless the regulated substance has a more stringent reporting requirement specified in the following document which is hereby adopted and incorporated by reference, and is available from the address given: Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, or www.flrules.org/Gateway/reference.asp?No=Ref-000###; or

(c) For non-petroleum de minimis discharges in accordance with Rule 62-780.550, F.A.C., unless the pollutant has a more stringent reporting requirement specified in Title 40, Part 302.

(6) Discharge response.

(a) When evidence of a discharge from a storage tank system is discovered, the following actions shall be taken:

1. Fire, explosion, and vapor hazards shall be identified and mitigated;

2. Actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules (e.g., Chapter 62-780, F.A.C., Contaminated Site Cleanup Criteria). Owners and operators are advised that other federal, state, or local requirements apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with Chapter 62-780, F.A.C.;

3. Each component of the storage tank system shall be integrity tested within three days of discovery of the discharge if the source and/or cause of the discharge is unknown unless the storage tank system has been properly placed out-of-service in accordance with subsection 62-761.800(1), F.A.C.;

4. The storage tank system component that is discharging shall be isolated from the system within three days of discovery of the discharge. If the component cannot be isolated from the system, within three days of discovery of the discharge the storage tank system shall not operate, dispense, or accept deliveries, or shall be placed out-of-service in accordance with Rule 62-761.800, F.A.C., until the component can be repaired or replaced;

5. If the storage tank system component that was found to be discharging will be repaired, it shall be repaired in accordance with Rule 62-761.700, F.A.C.;

6. If the storage tank system component that was found to be discharging will be replaced, it shall meet the storage tank system requirements in accordance with Rule 62-761.500, F.A.C.; and

7. If the storage tank system component that was found to be discharging will not be repaired or replaced, the storage tank system, if not already out-of-service, shall be placed out-of-service within 90 days or be closed in accordance with Rule 62-761.800, F.A.C.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—Formerly 62-761.820, Amended .

62-761.450 Notification and Reporting.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.450, Amended 9-30-96, 7-13-98, 6-21-04., Repealed .

Substantial rewording of Rule 62-761.500, F.A.C., follows. See Florida Administrative Code for present text.

62-761.500 Performance Standards for Category C Storage Tank Systems Requirements.

(1) General requirements.

(a) Wellhead Protection. Persons are advised that Chapter 62-521, F.A.C., contains restrictions regarding the location of storage tank systems within 500 feet of a potable water well.

(b) Secondary containment.

1. The materials used for secondary containment shall be:

a. Impervious to the regulated substance and able to withstand deterioration from external environmental conditions;

b. Non-corrosive or of corrosion-protected materials **or by vapor corrosion inhibitor technologies;** and

c. Of sufficient thickness and strength to withstand hydrostatic forces at maximum capacity to prevent a discharge.

2. For cathodically protected tanks and integral piping, secondary containment systems shall not interfere with the operation of the cathodic protection system. **For vapor corrosion inhibitor protected tanks, the secondary containment system shall provide containment for the vapor corrosion inhibitors**

Reinstatement of this language establishes a level playing field that does not favor cathodic protection over vapor corrosion inhibitor technologies

3. Secondary containment systems shall be designed and installed to direct any release to a monitoring point or points.

4. Containment and interstitial, as applicable, integrity tests shall be performed for all spill containment systems, piping sumps, hydrant sumps, and dispenser sumps before placing the components into initial use. The tests shall be in accordance with manufacturer's requirements. If a hydrostatic test is used, it shall be performed for at least:

a. Twenty-four hours for field-fabricated components; or

b. Three hours for factory-made components.

5. An interstitial integrity test shall be performed on the storage tank after it is delivered and installed at the facility and before the storage tank is placed into service. This test shall be performed in accordance with manufacturer's requirements or with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition, Petroleum Equipment Institute (PEI), Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380, and Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition, Petroleum Equipment Institute (PEI) Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380.

6. An interstitial integrity test shall be performed on integral piping in accordance with PEI/RP100-11 and PEI/RP1200-12 before the integral piping is placed into service.

7. If double-walled spill buckets or double-walled sumps are installed on the system, an interstitial integrity test shall be performed in accordance with PEI/RP1200-12 before the component is placed into service.

(c) Cathodic protection.

1. Test stations. Cathodic protection systems shall be designed, constructed, and installed with test stations in accordance with NACE standards contained in paragraph 62-761.210(2)(c), F.A.C. Cathodic protection test stations shall provide direct access to the soil in close proximity to each cathodically protected structure for placement of reference electrodes, and monitoring wires that connect directly to cathodically protected structures. Facilities where

direct access to soil in close proximity to cathodically protected structures is present, and where electrical connections to cathodically protected structures can be conveniently accomplished, need not have separate dedicated cathodic protection test stations.

2. The cathodic protection system shall be operated and maintained in accordance with subsection 62-761.700(2), F.A.C.

3. Any field-installed cathodic protection system shall be designed and installed by or under the direction of a Corrosion Professional.

4. Cathodic protection is not required for any field-fabricated primary storage tank that has been installed within a former single-walled storage tank as a means to upgrade to secondary containment. However, the former single-walled storage tank, which now becomes the secondary containment must be protected from corrosion.

5. Supplemental anodes that are added to a sti-P3 tank can be installed according to STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs.

(d) Compatibility. The primary and secondary walls of storage tank systems shall be made of, or internally lined with, materials that are compatible with the regulated substance stored in the storage tank systems and with substances or conditions present in the environment. All storage tank systems containing blends of ethanol, biodiesel, or other biofuels and additives shall be compatible with the regulated substances stored in the storage tank systems.

(e) All components of a storage tank system shall be installed in accordance with the manufacturer's instructions.

(f) All storage tank systems shall be installed in accordance with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070.; Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Process Piping, B31.3-2004, 2012 Edition, ASME International (founded as the American Society of Mechanical Engineers), Published by ASME, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900; and PEI/RP100-11. Storage tanks with field-fabricated internal secondary containment shall be installed in accordance with manufacturer's specifications, UL 1856, and NLPA 631, hereby adopted and incorporated by reference, and are available from the addresses given.

(g) A Certified Contractor shall perform the installation of storage tank systems containing pollutants, including tanks, integral piping (excluding drop tubes), overfill protection and spill containment equipment, internal release detection equipment, cathodic protection systems, secondary containment systems, and dispensers, if the installation of the storage tank system component disturbs the backfill, or where the integral piping is connected or disconnected during installation.

(h) Whenever storage tanks and/or integral piping are installed or relocated after the *(the effective date of the rule)*, Record Drawings ("as-builts"), signed and sealed by a professional engineer licensed in the state of Florida, shall be completed and maintained as a record in accordance with Rule 62-761.710, F.A.C. The as-built drawing shall include all construction and equipment design specifications including exact dimensions, geometry, and locations of the storage tanks and/or integral piping, of the work completed under contract, and any changes made to the original specifications during the construction process. As-built drawings are not required for tanks that are installed or retrofitted with internal secondary containment.

(2) Storage Tanks.

(a) All storage tanks at a facility shall have secondary containment and shall be constructed or installed to provide for interstitial monitoring of the entire storage tank.

(b) Fiberglass reinforced plastic double-walled tanks shall be constructed in accordance with the following document, Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference and available at the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(c) Cathodically protected double-walled steel tanks shall be:

1. Constructed in accordance with the following documents, or as applicable: Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, and External Corrosion Protection Systems for

Steel Underground Storage Tanks, UL 1746, 2007 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and are available from the addresses given;

2. Constructed in accordance with the following document, sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given ; or

3. Constructed in accordance with the following document, STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given; or

4. Certified by a Nationally Recognized Testing Laboratory for any field-installed cathodic protection system, that these requirements are met, constructed and designed by a Corrosion Professional in accordance with the following document, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and is available from the address given.

(d) Double-walled steel tanks coated with a fiberglass reinforced plastic composite jacketed steel tanks shall be constructed in accordance with UL 58 and UL 1746, ACT-100® Specification for External Corrosion Protection of FRP Composite Steel USTs - F894, Rev. September 2011, Steel Tank Institute (STI), 944 Donata Court, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(e) Jacketed steel tanks shall be constructed in accordance with UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(f) Double-walled storage tanks that meet the above performance requirements, that are constructed of equivalent material, have an equivalent design, or are corrosion protected shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(g) Tanks shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(h) Double-walled storage tanks that have been removed and that are to be reinstalled at a different location shall:

1. Be recertified that all original warranties are confirmed by the original manufacturer or the manufacturer's successor, and be reinstalled in accordance with the requirements in this section; or

2. Be recertified by a professional engineer licensed in the state of Florida that the storage tank meets all applicable requirements of this section; and

3. Proof of recertification shall be provided to the Department and County prior to the start of installation. The storage tank shall be re-registered in accordance with subsection 62-761.400(1), F.A.C.

(3) Integral piping.

(a) All integral piping, including remote fill piping that is in contact with the soil shall have secondary containment; or

(b) All integral piping that transports regulated substances over surface waters of the state shall have secondary containment and shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials; or

(c) All integral piping that is not in contact with the soil shall meet the construction requirements in paragraphs 62-761.500(3)(d)2. through 4., F.A.C., shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials.

(d) Construction requirements.

1. Fiberglass reinforced plastic integral piping or other non-metallic double-walled integral piping installed in contact with the soil at a facility shall meet the requirements of Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.

2. Coated steel double-walled integral piping shall be constructed in accordance with ASME B31.3. In addition, steel integral piping in contact with the soil shall be cathodically protected in accordance with the following documents: Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996, American Petroleum Institute, Published by API

Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070; Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906; and Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and available from the addresses given.

3. Metallic double-walled integral piping constructed of nonferrous materials such as copper shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, Piping Systems.

4. Integral double-walled piping constructed of other materials, design, or corrosion protection shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(e) Integral piping shall be installed with a slope to a low point monitoring system to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(f) Pressurized integral piping systems connected to dispensers shall be installed with shear valves or emergency shutoff valves in accordance with Section 6.3 of NFPA 30A, Requirements for Dispensing Devices. These valves shall be designed to close automatically if a dispenser is displaced from its normal position. The valves shall be rigidly anchored independently of the dispenser. The valves shall be tested in accordance with PEI/RP1200-12 at the time of installation by a certified contractor to confirm that the automatic closing function of the valve operates properly and that the valve is properly anchored.

(g) All storage tanks located at an elevation that produces a gravity head on the dispenser or on integral piping positioned below the product level in the storage tank must be installed and maintained with an isolation block valve in accordance with Chapter 22.13 of NFPA 30, Tank Openings Other Than Vents, and located as close as practical to the storage tank. In addition, anti-siphon valves for suction and pressurized systems with dispensers that are subject to NFPA 30A, shall be installed and maintained in accordance with Section 11.2 of NFPA 30A, Marine Fueling - Storage. Storage tank systems without dispensers shall be installed with valves that will prevent the tanks from emptying if there is a leak or break in the integral piping.

(h) Pressurized integral piping systems connected to dispensers shall be installed with a method of leak detection that can detect a leak within one hour, and can include a mechanical line-leak detector or an electronic line leak detector, or another device registered in accordance with Rule 62-761.850(2)F.A.C.

(Ought to be in this section as well as Section 600 to make it clear to owners and operators)

(i) Storage tank systems using corrosion protection systems with vapor corrosion inhibitors that are registered in accordance with Rule 62-762.851(2), F.A.C. shall be designed and installed under the direction of a Corrosion Professional.

(Allows the use of VCI's for interstitial corrosion protection)

(4) Spill containment systems.

(a) Storage tank systems shall be installed with a spill containment system at each tank fill connection meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C..

(b) Fillbox covers shall be marked or the fill connection tagged in accordance with Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, hereby adopted and incorporated by reference, and is available from the address given, or with an equivalent method approved by the Department in accordance with subsection 62-761.850(1), F.A.C.

(c) Spill containment systems, including double-walled spill containment systems installed after the effective date of the rule, shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. Owners and operators of facilities with double-wall spill buckets installed before the effective date of the rule may perform an interstitial integrity test to demonstrate the tightness of the double-wall spill bucket. If the double-wall spill containment system passes the interstitial integrity test, a record shall be kept of the test and the owner or operator shall be exempted from the requirement of interstitial monitoring. The spill containment system can be operated as a single-wall spill containment system, provided it meets all the requirements of a single-wall spill containment system.

Compromise discussed at the 24 Jul 14 Public Workshop that meets DEP concerns and allows owners to demonstrate tightness then treat the spill bucket as single-wall. Owners choosing to install new double-wall systems do so knowing the additional requirements.

(5) Dispensers and dispenser sumps.

(a) The dispensers used for transferring fuels from storage tanks to vehicles or portable containers shall be installed and maintained in accordance with the provisions of NFPA 30 and Chapter 6, Fuel Dispensing Systems; Chapter 9, Operational Requirements; and Chapter 11, Marine Fueling of NFPA 30A.

(b) Dispensers shall be installed with a dispenser sump meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C. The dispenser sump shall extend beneath the union of the integral piping and the dispenser, including the shear valve, if applicable.

(c) Dispenser sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. The dispenser sump shall be capable of containing a release for the entire area beneath the dispenser.

(6) Piping sumps.

(a) Piping sumps shall meet the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and be registered in accordance with subsection 62-761.850(2), F.A.C. The sumps shall be designed, constructed, and installed to minimize water entering the sump.

(b) Piping sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(7) Overfill protection.

(a) Owners or operators shall ensure that the volume available in the storage tank is greater than the volume of regulated substances to be transferred to the storage tank before the transfer is made and shall ensure that any transfer is repeatedly monitored to prevent overfilling and spilling.

(b) Storage tank systems shall be equipped with an overfill device that:

1. Automatically shuts off flow to the storage tank when the storage tank is no more than 95% full;

2. Restricts flow to the storage tank when the storage tank is no more than 90% full and does not fill the storage tank beyond 95% capacity. Vent restriction devices such as ball float valves shall not be installed at facilities after *(the effective date of the rule)* unless the storage tank system meets the requirements of Section 7 of PEI/RP 100-11, UST Overfill Equipment Verification, Inspection and Testing; or

3. Alerts the transfer operator when the tank is no more than 90% full by triggering an alarm and does not fill the tank beyond 95% capacity.

(c) Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.

(d) Storage tank systems with capacities of 2000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser are exempt from overfill protection requirements provided that the tanks are never filled beyond 80% capacity.

(e) Overfill devices shall be registered in accordance with subsection 62-761.850(2), F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.500, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.510 Performance Standards for Category-A and Category-B Storage Tank Systems

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303-.3072 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.510, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.600 Release Detection Requirements Standards.

(1) General requirements.

(a) Storage tank systems shall have a method, or combination of methods, of release detection that:

1. Can detect a new release from any portion of the storage tank system;

(b) Any storage tank system without a method, or combination of methods, of release detection in accordance with this section, shall immediately provide a method of release detection, or immediately empty the storage tank system and place the affected system out-of-service, or close the system in accordance with subsection 62-761.800(2), F.A.C.

(c) Any component of a storage tank system with an interstice shall have a method of interstitial monitoring. Interstitial monitoring can be performed with vacuum, pressure, hydrostatic (liquid-level sensing), sensors or probes, and visual release detection methods.

2. Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability to ensure that the device is functioning as designed; and

3. Meets the applicable performance standards in Rule 62-761.640, F.A.C. All manufacturer's instructions, and the performance claims and their manner of determination described in writing by the equipment manufacturer or installer shall be retained for as long as the storage tank system is used.

(b) A release detection response level shall be described in writing for each method or combination of methods of release detection used for a storage tank system.

(c) A release detection method shall be established and provided for all storage tank systems upon installation.

(d) Except as otherwise specified in this Rule 62-761.600-640, F.A.C., the release detection method or combination of methods used at a facility shall be performed at least once every a calendar month, but not exceeding 35 days, to determine if a release from the storage tank system has occurred.

(e) Visual inspections. At least once a month, but not exceeding 35 days, any component of a storage tank system that contains, transfers, or stores, or is designed to contain, transfer, or store pollutants that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of any component a storage tank, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances that reveals significant pitting, or cracking, splitting, blistering, delamination, signs of corrosion, structural damage, leakage, or other similar problems with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C., is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. Repairs shall be made in accordance with Rule 62-761.700, F.A.C. A monthly visual inspection is not required for any system component using an electronic release detection method, but piping and dispenser sumps must be visually inspected every six months and records kept of the visual inspection. At least once a month, but not exceeding 35 days, any storage tank and component of a storage tank that can be inspected visually shall be visually inspected in accordance with paragraph 62-761.640(2)(c), F.A.C. A visual inspection is not required for any system component that has a continuous or monthly electronic release detection sensor. Continuous electronic leak detection devices shall be inspected for proper operation on a monthly basis. Inspection may consist of visual observation or remote verification of proper operation.

(f) Electronic and mechanical release detection devices shall be:

1. Installed, calibrated, operated and maintained in accordance with the manufacturer's instructions and shall be designed and installed to provide service checks for operability to ensure that the device is functioning in accordance with subsection 62-761.700(3), F.A.C.; and

2. Registered in accordance with subsection 62-761.850(2), F.A.C., except that controllers or annunciators that are used to display leak detection test results are not required to be registered. A site suitability determination shall be performed for UST systems by December 31, 1998, in accordance with paragraphs 62-761.640(2)(a) (d), F.A.C., for storage tank systems using groundwater or vapor monitoring wells for release detection. If the site suitability determination indicates that on-site conditions are unsuitable for external monitoring, another method of release detection must be used.

(g) Electronic release detection devices shall be inspected for proper operation at least once every calendar month, but not exceeding 35 days. A record or summary of the alarm history, sensor status and testing results related to potential releases shall be printed from any electronic release detection device or be provided to the department through electronic documentation. If the release detection system is not capable of printing records, a manual log shall be maintained of the alarm history, sensor status and testing results. Vapor monitoring plans shall be performed by December 31, 1998, for UST systems, in accordance with paragraph 62-761.640(2)(d), F.A.C., for storage tank systems using vapor monitoring for release detection.

(h) Release detection shall be constructed and installed so that groundwater, rainfall, or soil moisture will not render the release detection method used inoperable. Any component of a storage tank system with secondary containment shall have an interstitial monitoring method meeting the requirements of paragraph 62-761.640(3)(a), F.A.C.

(i) Storage tank systems that store fuel solely for use by emergency power generators are not required to comply with the release detection requirements of Rule 62-761.600, F.A.C. Pressurized piping, excluding bulk product piping, shall be equipped with a line leak detector that meets the standards of paragraph 62-761.640(4)(a), F.A.C. Gravity piping systems are exempt from this requirement.

(2) Storage Tanks.

(a) One or more of the following release detection methods shall be used:

1. Liquid level monitoring systems with electronic hydrostatic sensors. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid levels can not be

maintained. Any alarm that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Vacuum monitoring. This method shall be able to detect incidents by determining changes in vacuum levels within the interstice by continuous monitoring of vacuum levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if vacuum levels can not be maintained. Any alarm that indicates that vacuum levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

3. Pressure monitoring. This method shall be able to detect incidents by using an inert gas and determining changes in pressure levels within the interstice by continuous monitoring of pressure levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if pressure levels can not be maintained. Any alarm that indicates that pressure levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

4. Electronic sensors in a normally dry interstice. This method shall be able to detect the presence of liquid in the interstice or monitoring low point and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid is detected. Any alarm that indicates the presence of liquid, other than condensate is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

Clarification

5. Visually inspected liquid level monitoring systems. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir. Any visual observation that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

6. Visually inspected vacuum or pressure monitoring with gauges. This method shall be able to detect incidents by determining changes in vacuum or pressure levels within the interstice.

a. Vacuum or pressure readings shall be able to detect a 50% change from one month to the next, or any cumulative change of vacuum or pressure exceeding 50% of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge. Vacuum or pressure refreshment must be performed in accordance with manufacturer's specifications and the system's equipment registration in subsection 62-761.850(2), F.A.C. Any change indicated above is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

b. Liquid-filled gauges shall be calibrated using NIST traceable standards prior to initial operation, hereby adopted and incorporated by reference, and available at the address given. The gauges shall be operational at all times.

7. Visual monitoring of normally dry interstices. This method shall be able to detect the presence of liquid at a low point of the interstice. Any presence of groundwater or surface water, and/or regulated substances in the interstice is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

8. Visual monitoring of sumps. This method shall be able to detect the presence of liquid at a low point of the sump. The accumulation of water or condensation in the low point of the sump shall not interfere with the ability to detect regulated substances. Any evidence of petroleum-stained containment surfaces, free product, or leaking of regulated substances from any part of a storage tank system secondary containment presence of regulated substances in the sump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

This problem hasn't gone away, and if left unchanged, the "any presence" requirement could be interpreted by inspectors as a slight sheen from a couple of drops of fuel released when a fuel filter was changed. It would create incidents at nearly every facility in Florida). Does the Department want to get inundated with INF's?

(3) Integral piping with secondary containment.

(a) One or more of the release detection methods in subsection 62-761.600(2), F.A.C., shall be used.

(b) In addition, pressurized small diameter integral piping in contact with the soil shall be equipped with a

release detection system that can detect a leak within one hour. One of the following methods shall be used:

1. Mechanical line leak detectors. Mechanical line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and restrict flow within one hour. Any instance where the mechanical line leak detector is restricting flow is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Electronic line leak detectors. Electronic line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and shut off power to the pump. Any instance where the electronic line leak detector has shut off power to the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. **Monthly release detection printed tapes from automatic tank gauges for electronic line leak detectors are not required to be kept as records to demonstrate compliance, but a positive response from an electronic line leak detector must be recorded and investigated in accordance with Rule 62-761.430, F.A.C.**

Another problem that isn't going away. Hess was granted an Alternate Procedure for this, and it should apply across the board for all facilities. This makes it clear that owners and operators of electronic line leak detectors are not punished for having a more effective and environmentally friendly method of piping release detection than owners with mechanical line-leak detectors that are not as effective.

3. Electronic interstitial monitoring devices. Storage tank systems without line leak detectors, shall have electronic interstitial monitoring devices that are capable of detecting a release of ten gallons within one hour and shutting off the pump. Any instance where the monitoring device has shut off the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(4) Annual operability testing of release detection systems. All release detection devices shall be tested annually at intervals not exceeding 12 months to ensure proper operation. The test must either simulate an actual alarm condition or shall be conducted according to manufacturer's specifications, and shall include, at a minimum, a determination of whether the device operates as designed. Remote testing of the system can be performed by the manufacturer if the remote test is included in the third party certification by a Nationally Recognized Testing Laboratory.

(5) Records shall be kept for three years in accordance with Rule 62-761.710, F.A.C.

(j) Any storage tank system not provided with a method, or combination of methods, of release detection in accordance with this section, shall be closed in accordance with subsection 62-761.800(2), F.A.C., by the date upon which release detection is to be provided.

(k) Groundwater and vapor monitoring wells meeting the standards for external monitoring specified in paragraphs 62-761.640(2)(a)-(d), F.A.C., that are no longer used for release detection, shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 2010. Wells not meeting these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are:

1. Used for contamination assessment purposes as specified in paragraph 62-761.600(2)(d), F.A.C.; or

2. Required by rules adopted by a County government in accordance with Section 376.317, F.S.

(2) By December 10, 1990, vehicular fuel petroleum storage tank systems of greater than 550 gallon capacity shall be provided with release detection. Release detection for all other storage tank and integral piping systems in contact with the soil shall be provided by December 31 of the year shown in Table RD.

TABLE RD

Year Storage Tank System Installed	Year Release	Detection Required			
Before 1970 or unknown	P/RD	1990	1991	1992	1993
1970-1974	P		RD		
1975-1979	P			RD	
1980-1990	P				RD

P = Installation of Release Detection for Pressurized Piping

RD = Installation of Release Detection for Tanks and Suction Piping.

(3) Effective December 31 of the applicable year specified under the schedule in Table RD, any groundwater monitoring plan or spill prevention control and countermeasure plan implemented before December 22, 1990, shall be capable of detecting the leak rate or quantity specified in paragraph 62-761.640(1)(a), F.A.C.

(4) UST systems that store fuel solely for use by emergency power generators are not required to comply with the release detection standards of Rules 62-761.600 through 62-761.640, F.A.C.

(5) Monitoring wells shall meet the standards of subsection 62-761.640(2), F.A.C., by December 31, 1998. Wells that do not meet these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are required by a rule that was adopted by a County government in accordance with Section 376.317, F.S. However, if a monitoring well is used solely for the purpose of monitoring petroleum contamination in accordance with Chapter 62-770, F.A.C., the well does not have to be closed until the completion of the site rehabilitation pursuant to Chapter 62-770, F.A.C. Covers of leak detection monitoring wells redesignated as site assessment wells by the facility owner or operator shall be colored black with a white circle within the black background. The diameter of the white circle shall be approximately one half the diameter of the manhole cover, or approximately four inches.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.3072 FS. History—New 12-10-90, Formerly 17-761.600, 62-761.610, 62-761.640 Amended 7-13-98, 6-21-04.

62-761.610 Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.610, Amended 9-30-96, 7-13-98, 6-21-04, Repealed

62-761.640 Performance Standards for Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.640, Amended 9-30-96, 7-13-98, 6-21-04, Repealed

Substantial rewording of Rule 62-761.700, F.A.C., follows. See Florida Administrative Code for present text.

62-761.700 Repairs, Operation and Maintenance of Storage Tank Systems.

(1) Repairs.

Repairs shall be performed, as necessary, if any component of a storage tank system has:

1. A release or discharge or contributed to a release or discharge of a regulated substance; or
2. An operational or structural problem that could potentially result in a release or discharge, or lead to the presence of groundwater or surface water in the interstice of a double-walled storage tank or integral piping.

(b) The storage tank system shall immediately cease operating, dispensing, and/or accepting deliveries, if:

1. Repairs are required for any component of a storage tank system; and
2. The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shut down of electrical generating units serviced by the storage tank system.

(c) Repairs shall be made:

1. To restore the structural integrity of the storage tank system and in a manner that will prevent releases or discharges from structural failure or corrosion for the remaining operational life of the storage tank system; and
2. In accordance with manufacturer's specifications and applicable reference requirements.

(d) If repairs are needed for any primary or secondary tank or piping system walls, or any interstitial spaces of storage tank system components, the repaired components shall be integrity tested for liquid tightness before being placed back into operation.

(2) Cathodic protection.

(a) Cathodic protection systems shall be operated and maintained to provide continuous corrosion protection to the metal components of those portions of the storage tank and integral piping in contact with the soil or within metallic interstitial spaces using vapor corrosion inhibitor technologies.

(Recommend adding this for a potential use of vci's. Otherwise, it would limit the use to components in contact with the soil.)

(b) Inspection and testing requirements.

1. Storage tank systems equipped with cathodic protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year, or every three years for factory-installed (galvanic) cathodic protection systems, thereafter in accordance with the criteria contained in NACE International Standards SP0169-2007 and SP0285-2011, or STI R051-06 Cathodic Protection Testing Procedures for sti-P3[®] UST's (R051), as applicable, hereby adopted and incorporated by reference, and available at the address given. All cathodic protection systems shall either have permanent test stations for soil-to-structure potential measurements or use temporary field test stations for required testing in accordance with this subparagraph.

2. Storage tank systems with impressed current systems shall be inspected at intervals not exceeding two months. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 1440 hours in one year shall be immediately taken out-of-service and within 30 days, and assessed by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria.

(c) Records of the continuous operation of impressed current systems and all cathodic protection inspection, testing, and repair activities shall be maintained in accordance with paragraph 62-761.710(3)(c), F.A.C.

(d) Storage tank systems with cathodic protection systems that have been determined by a Corrosion Professional that the cathodic protection system cannot achieve or maintain protection levels in accordance with the design criteria shall:

1. Be repaired within 90 days in accordance with subparagraph 62-761.700(2)(b)1., F.A.C., or

2. Be closed in accordance with subsection 62-761.800(2), F.A.C.

(3) Operation and maintenance.

(a) Integrity testing.

1. The integrity of secondary containment systems and interstitial spaces shall be verified by performing an interstitial or containment integrity test in accordance with manufacturer's specifications or PEI/RP1200-12. Secondary containment systems that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection are exempt from this requirement. The interstitial or containment integrity tests shall be performed in accordance with the following schedule:

a. Double-walled storage tanks shall be tested at the time of installation or repair;

b. The interstice of double-walled integral piping within five years of (the effective date of the rule), and every five years thereafter;

c. Below-grade piping sumps within five years of (the effective date of the rule), and every five years thereafter;

d. Below-grade dispenser sumps within five years of (the effective date of the rule), and every five years thereafter;

e. Double-walled spill containment systems within five years of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter, unless exempted in accordance with Rule 62-761.500(4)(c), F.A.C.:

Allows the owners that tested to treat their 2W buckets as single-wall

f. Single-walled spill containment systems within one year of (the effective date of the rule) and at intervals not exceeding every 12 months thereafter; and

g. Single-walled storage tanks or integral piping installed within sumps are exempt from this requirement.

2. If using hydrostatic testing for the interstitial or containment integrity test, it shall be performed by filling the secondary containment system with water to a marked level four inches above the highest penetration of the side wall of the containment equipment, with the exception of spill containment systems which shall be filled to a level within 1.5 inches of the top of the bucket. The secondary containment system shall be deemed tight if the water level remains stationary for a three hour period.

3. Any integrity test that indicates that the component is not tight shall be reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(b) Water removal.

1. Spill containment systems, interstitial spaces, dispenser sumps, and piping sumps shall be maintained to provide access for examination and water removal. Water in excess of one inch in depth, or any regulated substance collected in secondary containment, spill containment systems, or in piping sumps and dispenser sumps shall be removed within 72 hours of discovery and be either reused or properly disposed.

2. Petroleum Contact Water. Petroleum contact water from storage tank systems shall be managed in

accordance with Chapter 62-740, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 403.091?, 489.133 FS. History--New 3-12-91, Formerly 17-761.700, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.710 Recordkeeping.

(1) All records shall be dated, maintained in permanent form, and available for inspection by the Department or County. If records are not kept at the facility, they shall be made available at the facility or another agreed upon location upon five working days of receipt of the Department's request notice. Site access to the facility shall be provided for compliance inspections conducted at reasonable times.

(2) Records of the following are required to be kept for three ~~two~~ years:

(a) ~~Measurements and reconciliations of inventory, as applicable;~~

~~(b) Repair, operation, and maintenance records;~~

~~(b)(c) All release detection results, including electronic test results, regardless of the frequency, and monthly visual inspections performed in accordance with paragraph 62-761.600(1)(e) 62-761.640(2)(e), F.A.C. The presence of a regulated substance's odor, sheen, or free product shall be recorded for each sampling event;~~

~~(c)(d) All test data and results gathered during annual operability tests and integrity tests Release detection response level descriptions;~~

~~(d)(e) A copy of all test data and results gathered during tightness tests, pressure tests, and breach of integrity tests, and the name and type of the test approved under Rule 62-761.850, F.A.C.;~~

~~(f) Certification of Financial Responsibility on Form 62-761.900(3);~~

~~(g) Records of the types of fuels stored per tank; and~~

~~(h) The repair or replacement of gaskets, valve packings, valves, flanges, and connection/disconnection fittings for bulk product piping if the repair or replacement is performed in response to a discharge or loss of regulated substances.~~

(3) Records of the following, generated after July 13, 1998, shall be maintained until for the life of the storage tank system closure:

(a) Manufacturer's instructions for operation, maintenance, and testing for release detection equipment ~~Results of internal inspections and non-destructive testing;~~

(b) Any performance claims for release detection equipment described in writing by the equipment manufacturer or installer;

~~(c) Records of storage tank system installations, replacements, recertifications, and upgrades;~~

~~(c)(d) Records of installation, maintenance, inspections, and testing of corrosion and cathodic protection systems in accordance with NACE and STI standards;~~

Allows for VCI technologies

~~(e)(f) Record drawings ("as-builts") as specified in paragraph 62-761.500(1)(i), F.A.C. Site suitability determinations in accordance with subsection 62-761.640(2), F.A.C.;~~

~~(f)(g) A copy of all INFs, and the results of all incident investigations as specified in Rule 62-761.430, F.A.C. Vapor monitoring plans and all records kept pursuant to the plan;~~

~~(g)(h) A copy of all DRFs Closure assessment reports if the location continues as a facility; and~~

~~(h) A copy of all Closure Report Forms, if the location continues as a facility Verification from a Certified Contractor of the existence of a single check valve beneath the suction pump for suction piping systems.~~

(i) Records to demonstrate financial responsibility shall be maintained until storage tank system closure if no contamination has been reported or if no Site Rehabilitation Completion Order (SRCO) has been issued pursuant to 62-780, F.A.C.

(4) The Department strongly encourages that all records relating to financial responsibility be maintained permanently.

Rulemaking Specific Authority 376.303, 376.322(3), 403.091 FS. Law Implemented 376.303, 376.322 FS. History--New 12-10-90, Formerly 17-761.710, Amended 9-30-96, 7-13-98, Repromulgated 6-21-04, _____.

62-761.800 Out-of-Service and Closure Requirements.

(1) Out-of-service storage tank systems.

(a) General.

1. Storage tank systems that are taken out-of-service, as required in this subsection as defined in subsection 62-761.200(40), F.A.C., shall continue to be maintained in accordance with this Chapter unless otherwise noted

herein.:

2. Facility owners and operators of out-of-service storage tank systems shall:

- a. Continue to operate and maintain corrosion protection in accordance with subsection paragraph 62-761.700(2)(4)(b), F.A.C.;
- b. Perform external release detection for sites without contamination, as applicable, every six months in accordance with provisions of subsection 62-761.640(2), F.A.C.;
- c. Leave vent lines open and functioning;
- d. Remove all regulated substances so that no more than one inch in depth or 0.3 percent by weight of regulated substances remains in the storage tank. Empty the system and cap or secure all lines, pumps, manways, and ancillary equipment, as applicable; and
- e. Secure or close off the system to outside access.

32. Facility owners and operators of out-of-service storage tank systems shall monitor the interstice and the liquid level in the storage tank annually but not to exceed 12 months. Records of these inspections shall be maintained in accordance with subsection 62-761.710(2), F.A.C. In the event that liquid in excess of one inch, or 0.3% by weight, in the storage tank or any liquid, other than condensate, in the interstice is discovered, facility owners and operators must follow the procedures for incidents pursuant to Rule 62-761.430, F.A.C. If the storage tank system is required to be upgraded during the time that it is out-of-service, it shall be upgraded or replaced in accordance with this chapter before it is returned to service.

43. Release detection device annual operability testing, containment and interstitial integrity testing, and annual overfill protection device testing are not required while the system is properly out-of-service. All afore-mentioned testing shall be up-to-date in accordance with this Chapter and indicate proper operation before adding regulated substances to the storage tank system. In addition, storage tank systems installed after (the effective date of the rule) that have been out-of-service for more than 730 days shall perform interstitial integrity testing of the storage tank and integral piping before adding regulated substances to the storage tank system. Systems with secondary containment installed and operated in accordance with this chapter may remain in a continuous out-of-service status for ten years. After this period, the system shall be returned to service or closed in accordance with subsection 62-761.800(2), F.A.C.

54. Storage tank systems with secondary containment shall only be designated as out-of-service for a maximum of ten continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with subsection 62-761.800(2), F.A.C. Tightness, pressure, or other tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., as applicable, on any systems being returned to service.

(b) Before being returned to service, the following tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., for systems that are taken out of service for more than 180 days:

1. A tightness test for single-walled systems; or
2. A breach of integrity test for double-walled Category C systems.

(c) Single-walled systems that are taken out of service shall not be kept out of service longer than two years for corrosion-protected systems or one year for unprotected bare steel systems. After the end of these time periods, the systems shall either be upgraded or permanently closed.

(2) Closure of storage tank systems.

(a) The following storage tank systems must be closed within 90 days in accordance with the provisions of this subsection: General.

1. A storage tank system that fails to meet or is not modified to meet the Storage Tank System requirements of Rule 62-761.500, F.A.C. Closure of storage tank systems shall be performed by:

- a. Removing all liquids and accumulated sludges;
- b. Disconnecting and capping, or removing, all integral piping. Manways shall be secured to prevent access;
- c. Closing the storage tank system in accordance with paragraphs 62-761.800(2)(b), F.A.C., as applicable; and
- d. Conducting a closure assessment in accordance with subsection 62-761.800(3), F.A.C.

2. A storage tank system that requires repair pursuant to Rule 62-761.700, F.A.C., but cannot be repaired to operate in accordance with the requirements of this Chapter shall be taken out-of-service. If it cannot be repaired within 365 days after being taken out-of-service, it shall be permanently closed. After closure, storage tank systems may be used to store materials or substances other than regulated substances in accordance with all applicable Department reference standards, (for example, API 1604). Owners and operators are advised that other federal, state, or local requirements may apply to these activities.

3. Monitoring wells associated with closed systems that are not being used for release detection or site assessment purposes shall be closed in accordance with paragraph 62-761.600(1)(k), F.A.C.

(b) Closure of storage tank systems shall be performed by: Unmaintained systems shall be permanently closed

within 90 days of discovery.

1. Conducting a Closure Integrity Evaluation as defined in subsection 62-761.200(8), F.A.C., and completing the UST Closure and Investigation Report Form 62-761.900(7), hereby adopted and incorporated by reference, and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>, in accordance with subsection 62-761.800(3), F.A.C.

2. Removing by a Certified Contractor or disconnecting and capping all integral piping;

3. Removing and disposing of a storage tank by a Certified Contractor, or in-place closure by filling the storage tank with a solid inert material of sufficient density to prevent a structural collapse of the closed storage tank, which shall be in accordance with the following documents hereby adopted and incorporated by reference, and available from the addresses given. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, and Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C). In lieu of in-place closure or removal, a storage tank may be used to store liquids other than regulated substances in accordance with API RP 1604. Owners and operators are advised that other federal, state, or local requirements apply that regulate these activities; and

4. Properly closing monitoring wells associated with closed systems that are not being used for site assessment purposes;

(c) The removal and disposal of all liquids and accumulated sludges may be required according to other local, state, and federal requirements. System removal, closure in place, and disposal shall be performed:

1. In accordance with API RP 1604 and NFPA 30; and

By a Certified Contractor if the system is removed from the ground, unless it is closed in place by filling it with a solid inert material of sufficient density to prevent a structural collapse of the closed system.

(3) Closure Integrity Evaluation and Closure Report Form Requirements Closure assessment of storage tank systems.

(a) Closure Integrity Evaluation. At time of closure, replacement, installation of secondary containment, or change in service from a regulated substance to a non-regulated substance, an assessment shall be performed to determine if a discharge from the system or system components has occurred.

1. A Closure Integrity Evaluation as defined in subsection 62-761.200(8), F.A.C., must be performed no more than 45 days prior to closure, replacement, or change in service from a regulated substance to a non-regulated substance for all double-walled storage tanks, double-walled integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil. If a Site Rehabilitation Completion Order (SRCO) or a Monitoring Only Plan (MOP) Approval Order has been issued by the Department for a contaminated area of a site, a closure assessment shall be performed for any subsequent storage tank system removal, replacement, or installation of secondary containment.

2. A Closure Integrity Evaluation requires a visual assessment of the interstitial space of double-walled tanks, integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil to determine if there are any products or pollutants or any water other than condensate present within the interstice. Other methods approved by the manufacturer or the Department such as vacuum, pressure, or inert gases may be used instead of visual observations. Tanks, pipes, or other system components in contact with soil at any site are subject to closure assessment requirements.

3. A Closure Integrity Evaluation for single-walled piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil requires a hydrostatic test or another test approved by the manufacturer.

4. A failed Closure Integrity Evaluation requires the reporting of the failed evaluation as an incident in accordance with subsection 62-761.405(3), F.A.C., and the investigation of the incident in accordance with subsection 62-761.430, F.A.C. If soil and/or groundwater sampling is necessary to determine whether a discharge has occurred, then an investigation shall be conducted in accordance with Form 62-761.900(7), UST Closure and Investigation Report Form.

5. The County must be provided with a copy of the Closure Integrity Evaluation report as part of the notification process pursuant to subsection 62-761.405(2), F.A.C. At a minimum, the Closure Integrity Evaluation report shall include the name of the third party inspection or testing company conducting the evaluation, a description of the storage tank system or system components that are being closed, the date of the evaluation(s) conducted, a description of the evaluation conducted along with the results, and a conclusion based on the results as to whether an incident has occurred.

6. In lieu of conducting a Closure Integrity Evaluation, the owner or operator may conduct a site assessment in accordance with 62-780.600, F.A.C. The owner or operator who fails to conduct a Closure Integrity Evaluation before the storage tank system or system component has been removed or closed in-place, shall conduct a site assessment in accordance with 62-780.600, F.A.C.

(b) Underground Storage Tank Closure and Investigation Report Form. A Closure Report Form is always required for storage tanks, integral piping, piping sumps, dispenser sumps, and spill containment systems, shall be completed at the time of closure, replacement, or change in service from a regulated substance to a non-regulated substance, and shall be submitted in writing or electronic format to the County within 60 days of completion of the closure, replacement, or change in service from a regulated substance to a non-regulated substance. A closure assessment is not required for:

1. Sites with documented contamination requiring a site assessment in accordance with Chapter 62-770, F.A.C., including those that are eligible for the Early Detection Incentive Program (EDI), the Florida Petroleum Liability and Restoration Insurance Program (FPLRIP), and the Petroleum Cleanup Participation Program (PCPP), pursuant to Sections 376.3071 and 376.3072, F.S. Nevertheless, documentation of procedures followed and results obtained during closure shall be reported in a Limited Closure Summary Report, Form 62-761.900(8), and in accordance with Section A of DEP's "Storage Tank System Closure Assessment Requirements";

2. Systems initially installed with secondary containment, provided that no unexplained positive response of an interstitial release detection device or method occurred during the operational life of the system, or the secondary containment passed a breach of integrity test prior to closure; and

3. Systems upgraded with secondary containment that have closed interstitial spaces, where a closure assessment was performed prior to installation of secondary containment, provided that the secondary containment passed a breach of integrity test in accordance with paragraph 62-761.640(3)(a), F.A.C.;

(c) Closure assessment sampling and analysis shall be conducted according to DEP's "Storage Tank System Closure Assessment Requirements."

(d) A closure assessment report shall be submitted to the County within 60 days of completion of any of the activities listed in paragraph 62-761.800(3)(a), F.A.C. The report shall include sample types, sample locations and measurement methods, a site map, methods of maintaining quality assurance and quality control, and any analytical results obtained during the assessment in accordance with DEP's "Storage Tank System Closure Assessment Requirements."

(e) Persons are advised that contaminated soil excavated, disposed of, or stockpiled on site during the closure of a storage tank system is regulated by Chapter 62-770, F.A.C.

(4) Facilities closing single-walled storage tanks and/or piping, or tanks and/or piping that are in contact with the soil shall conduct a site assessment in accordance with Rule 62-780.600, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.30716 FS. History—New 12-10-90, Formerly 17-761.800, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.820 Incident and Discharge Response.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.820, Amended 9-30-96, 7-13-98, 6-21-04, Repealed.

62-761.850 Alternative Procedures Requirements and Equipment Registration Approvals.

(1) Alternative procedure requirements.

(a) Any person subject to the provisions of this Chapter may request in writing a determination by the Secretary or the Secretary's designee that any requirement of this Chapter shall not apply to a regulated storage tank system at a facility, and shall request approval of alternative ~~alternate~~ procedures or requirements.

(b) On Form 62-761.900(4), Alternative Requirement or Procedure Form, effective date, (the effective date of the rule), hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>, the request shall set forth at a minimum the following information:

1. The specific storage tank system or facility for which an exception is sought;
2. The specific provisions of this Chapter ~~62-761, F.A.C.~~, from which an exception is sought;
3. The basis for the exception;

4. The alternative procedure or requirement for which approval is sought;
5. Documentation that demonstrates that the alternative procedure or requirement provides an equivalent or greater degree of protection for the lands, surface waters or groundwaters of the State as the specific provisions of this Chapter from which an alternative procedure is sought ~~established requirement~~; and
6. Documentation that demonstrates that the alternative procedure or requirement is at least as effective as the established procedure or requirement.
7. If an alternative ~~alternate~~ procedure or requirement is not able to be sought under subparagraph 5. or 6., then documentation that demonstrates that the specific provisions of this Chapter from which the exception is sought imposes regulatory costs on the regulated entity that could be reduced through approval of a less costly regulatory alternative or requirement that provides a substantially equivalent degree of protection for the lands, surface waters, or groundwaters of the State as the established requirement.
- (c) ~~The Department shall issue an Order within 90 days of the receipt of a completed Alternative Requirement or Procedure Form, either: Within 60 days of the receipt of a request for approval of an alternative procedure or requirement, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(1), F.A.C., are met.~~
1. Approving the request with any conditions necessary to meet the requirements of paragraph 62-761.850(1)(b), F.A.C.; or
 2. Denying the request and stating the reason(s) the request does not make an adequate demonstration that the requirements of paragraph 62-761.850(1)(b), F.A.C., have been met.
- (d) The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S. The Department's failure to timely issue an Order does not grant or approve the request. ~~The Secretary or the Secretary's designee shall specify by order each alternative procedure or requirement approved for an individual storage tank system or facility in accordance with this rule or shall issue an order denying the request for such approval.~~
- (e) The provisions of this ~~R~~rule do not preclude the use of any other applicable relief provisions.
- (2) Registration of storage tank system equipment and release detection systems and methods ~~Equipment approvals.~~
- (a) Owners and operators shall verify at the time of installation that the storage tank system equipment and release detection systems and methods (including equipment and methods that were previously approved by the Department under the former Equipment Approval process) have been registered with the Department. ~~Storage tank system equipment used in the State of Florida must have the approval of the Department before installation or use, with the exception of:~~
- (b) Any storage tank system equipment installed after (the effective date of the rule) must be registered with the Department in accordance with this section. Upon discovery, non-registered storage system equipment installed after (the effective date of the rule) must be removed within 90 days, unless registration is obtained and listed within the 90 day time period.
 - (c) Equipment previously approved by the Department under the former Equipment Approval process and installed prior to (the effective date of the rule) can continue to be used regardless of later non-renewal or removal of registration from the list of registered storage tank system equipment, provided the equipment is still operating as designed.
 - (d) Only the storage tank system equipment as stated in this Chapter shall be registered by the equipment manufacturer using Form 62-761.900(3) Storage Tank System Equipment Registration Form, effective date, (the effective date of the rule), hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>. ~~The following storage tank system equipment is exempt from registration:~~
 1. Dispensers, dispenser islands, nozzles, and hoses;
 2. ~~Monitoring well bailers;~~
 3. ~~Manhole and fillbox covers;~~
 34. ~~Valves and ball float valves;~~
 45. ~~Cathodic protection test stations;~~
 6. ~~Metallie bulk product piping;~~
 57. Small diameter integral piping not in contact with soil, unless the integral piping extends over or into surface waters; ~~and~~
 68. Vent lines; ~~and~~

7. Gauges used for vacuum monitoring.

(e)(b) Registration Equipment approval requests shall be submitted to the Department in writing or electronic format with a demonstration that the equipment will provide equivalent protection or meet the appropriate performance requirements standards contained in this Chapter. Any approvals or denials received from other states or countries shall be included in the registration approval request to the Department.

(f)(e) A third-party demonstration by a Nationally Recognized Testing Laboratory shall be submitted in writing or electronic format to the Department with the application. The third-party demonstration shall provide:

1. A technical evaluation of the equipment;
2. Test results that verify that the equipment will function as designed; and
3. A professional certification or determination that the equipment meets the performance requirements standards contained in this Chapter; Rule 62-761.500, F.A.C.

4. Integrity test requirements and procedures;

5. Annual operability testing procedure for the equipment or release detection system or method; and

6. Copies of the manufacturer's instructions to maintain the manufacturer's warranty.

(g)(d) Release detection methods and tank and piping tightness and pressure testing methods must be registered in accordance with this subsection prior to being used. Within 60 days of the receipt of a request for an equipment approval, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(2), F.A.C., are met.

(h)(e) The storage tank system equipment and release detection systems and methods registered with the Department under this subsection must be renewed every five years. Failure to renew will result in removal from the equipment registration list. Any changes, improvements, or modifications to equipment beyond the scope of the original demonstration by the Nationally Recognized Testing Laboratory will require a renewal of the registration and a new demonstration from a Nationally Recognized Testing Laboratory pursuant to paragraph 62-761.850(2)(f), F.A.C. The Secretary or the Secretary's designee shall specify by order each equipment approval that is approved in accordance with this rule or shall issue an order denying the request for such approval. The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S.

(i) The Department shall place conditions upon the use of the storage tank system equipment and release detection systems and methods, remove equipment or methods from the list of registered storage tank system equipment, or not renew registration based on information submitted to the Department or if the equipment does not perform in field application as certified in the third party certification by a Nationally Recognized Testing Laboratory.

(3) Registration of Operator Training Providers

(a) Owners and Operators must verify that providers of training required under 62-761.350 F.A.C. (including training which was previously approved by the Department under the former approval process) have been registered with the Department.

(b) Training previously approved by the Department prior to can continue to be used until one year after the (the effective date of the rule).

(c) Registration of vendor's requests shall be submitted to the Department in writing or electronic format with a demonstration that meets the appropriate training contained in this Chapter. Any approvals or denials received from other states or countries shall be included in the registration request to the Department.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.850, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.900 Storage Tank Forms.

The forms used by the Department in the Storage Tank System Program are adopted and incorporated by reference in this section. The forms are listed by form rule number, which is also the form number, and with the subject title, and effective date. Copies of forms are available may be obtained by writing to the Administrator, Storage Tank Regulation Section, Florida Department of Environmental Protection, Division of Waste Management, 2600 Blair Stone Road, M.S. 4500 4525, Tallahassee, Florida 32399-2400, or:
www.flrules.org/Gateway/reference.asp?No=Ref-000###, or
<http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

- (1) Form 62-761.900(1) Discharge Report Form, (the effective date of the rule) July 13, 1998.
- (2) Form 62-761.900(2) Storage Tank Facility Registration Form, (the effective date of the rule) July 13, 1998.
- (3) Form 62-761.900(3) Storage Tank System Equipment Registration Form, (the effective date of the rule) Certification of Financial Responsibility, July 13, 1998.

(4) Form 62-761.900(4) Alternative Requirement or Procedure Form, *(the effective date of the rule)* July 13, 1998.

(5) Form 62-761.900(5) Underground Storage Tank Installation and Removal Form for Certified Contractors, *(the effective date of the rule)* July 13, 1998.

(6) Form 62-761.900(6) Incident Notification Form, *(the effective date of the rule)* July 13, 1998.

(7) Form 62-761.900(7) Underground Storage Tank Closure and Investigation Report Form, *(the effective date of the rule)*, Monthly Statistical Inventory Reconciliation (SIR) Report, July 13, 1998.

(8) Limited Closure Summary Report Form, July 13, 1998.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.900, Amended 9-30-9698, 7-13-98, ~~Repromulgated~~ 6-21-04 , _____.

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CHAPTER 62-761
UNDERGROUND STORAGE TANK SYSTEMS

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62-761.100 Intent.

(1) The purpose of this Chapter is to provide requirements standards for the registration, construction, installation, operation, maintenance, repair, closure, and disposal of underground storage tank systems that store regulated substances, in order and to minimize the occurrence and environmental risks of releases and discharges. This Chapter provides requirements standards for underground storage tank systems having individual storage tank capacities greater than 110 gallons.

(2) No change.

(3) Site access to the facility and individual storage tank system or system components shall be provided for compliance inspections conducted at reasonable times. Facility owner or operator shall provide the Class A or B Operator designated pursuant to Rule 62-761.350, F.A.C., to unlock and open any covers, manways, and release detection equipment associated with the storage tank system or system component and demonstrate operational functionality of electronic equipment.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 403.091 FS. History—New 12-10-90, Formerly 17-761.100, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.200 Definitions.

All words and phrases defined in Sections 376.301 and 376.79, F.S., shall have the same meaning when used in this chapter unless specifically stated otherwise in this chapter. See Sections 376.301 and 376.79, F.S., for definitions of the following terms: “Contaminant (contamination shall mean the same as contaminant),” “Contaminated site,” “Department,” “Discharge,” “Facility,” “Flow-Through Process Tank,” “Hazardous substances,” “Operator,” “Owner,” and “Pollutants.” The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:~~The following words, phrases or terms used in this chapter, unless the context indicates otherwise, shall have the following meaning:~~

(1) No change

(2) “Biofuel” means fuel produced from renewable resources especially, but not limited to, organic feedstocks such as plant biomass, vegetable oils, animal fats and treated municipal and industrial wastes. “AST” means an aboveground storage tank.

(3) “Bulk product piping” means on-site integral piping with an internal diameter greater than three inches that is utilized for transporting regulated substances.

~~(3)(4)~~ “Cathodic protection” means a method of preventing corrosion of a metal surface by making that

surface the cathode of an electrochemical cell through the use of devices such as galvanic anodes or impressed current.

(4)(5) “Cathodic Protection Tester” means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems and be certified as a NACE or STI cathodic protection tester.

(5)(6) “Certified Contractor” means a Pollutant Storage System Contractor certified by the Department of Business and Professional Regulation in accordance with Chapter 489, F.S. Except for the exemptions specified in Chapter 489, F.S., Certified Contractors are not required for activities that do not involve excavating or disturbing the backfill around underground storage tank systems. Certified Contractors are the only contractors authorized to perform the following activities for underground pollutant storage tank systems **if backfill is disturbed:**

(a) Installation of:

1. Underground storage tanks or integral piping, excluding drop tubes;
2. Overfill protection and spill containment;
3. Secondary containment;
4. Internal release detection devices;
5. Cathodic protection systems; and
6. Dispenser sumps ~~liners~~ when the integral piping is connected or disconnected during the installation of secondary containment.

(b) Removal of tanks or integral piping; and

(c) Internal lining of tanks.

(6) “Certified Contractors Form” means Underground Storage Tank Installation and Removal Form for Certified Contractors 62-761.900(5).

(7) “Chlorine” includes organic and inorganic compounds that are liquids at standard temperature and pressure that, when discharged, may release free chlorine (Cl₂) or chlorides (Cl⁻).

(8) “Closure Integrity Evaluation” is an assessment of storage tank system integrity that is performed by a third-party inspection or testing company at closure, replacement, or change in service from a regulated substance to a non-regulated substance. It is the evaluation of the tightness of the interstitial space of a double-walled storage tank, integral piping, piping sump, dispenser sump, and spill containment system; or the tightness of the containment of a single-walled piping sump, dispenser sump, or spill containment system.

(9) “Closure Report Form” means Underground Storage Tank Closure and Investigation Report Form 62-761.900(7). *Renumber*

(10)(8) “Compatible” means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the storage tank system under conditions likely to be encountered in the storage tank system.

(9) “Contamination” or “contaminated” means the presence of regulated substances in surface water, groundwater, soil, sediment, or upon the land, in quantities result in exceedances of applicable cleanup target levels specified in Chapter 62-770, F.A.C., where petroleum or petroleum products are present, or water quality standards in Chapter 62-3, 62-302, or 62-550, F.A.C.

(11)(10) “Corrosion Professional” means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal components of a storage tank system. Corrosion Professionals shall be accredited or certified by NACE International as a either a Cathodic Protection Specialist or Corrosion Specialist, or be a professional engineer licensed registered in the State of Florida.

(12) “Corrosion Protection” means the minimization of corrosion by the use of cathodic protection or by the use of vapor corrosion inhibitors.

This definition is still needed for STI P3 tanks and for Vapor Corrosion Inhibitor technologies that are being developed for UST activities. Keeping it in the rule does no harm, and will help provide a foundation for the aforementioned needs. This is an important factor for Zerust and STI, and may result in the need to challenge the rule if omitted.

(12)(11) “County” means a locally administered governmental program under contract with the Department to perform compliance verification activities at facilities with storage tank systems within the boundaries stipulated in the applicable contract.

(12) “Discharge” includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substance which occurs and which affects lands and the surface and ground

waters of the state.

(13) "Discovery" means:

(a) ~~Either actual knowledge or knowledge of facts that could reasonably lead to actual knowledge of the existence of an~~ previously unreported incident, release, or discharge, ~~or an unmaintained storage tank system; or~~

(b) ~~Discovery as specified in the Petroleum Contamination Site Cleanup Criteria subsection 62-770.200(10), F.A.C.~~

(14) "Dispenser" means a dispensing system that is used to transfer regulated substances ~~vehicular fuel~~ from a fixed point to a vehicle or portable container.

(15) "Dispenser liner" means a liner installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(15) "Dispenser sump" means a storage tank system component installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(16) "Dispensing system" means equipment that is used to transfer regulated substances from integral piping through a rigid or flexible hose or pipe to another point of use outside of the storage tank system.

(16)(17) "Double-walled" means a storage tank system or system component that has an outer tank wall, ~~or integral piping that has an outer wall that provides secondary containment of the primary tank or piping.~~

(17) "DRF" means Discharge Report Form 62-761.900(1).

(18)(18) "Empty" means all regulated substances have been removed so that no more than one inch in depth or 0.3 percent by weight of total system capacity of regulated substances remains in the storage tank system.

(19) "Existing contamination" means:

(a) The presence of free product or sheen on the groundwater;

(b) The presence of vapor levels in monitoring wells measured in accordance with DEP's "Guidelines for Vapor Monitoring" or by a Flame Ionization Detector or an equivalent instrument in excess of:

1. 500 parts per million total petroleum hydrocarbons for storage tank systems containing gasoline or equivalent petroleum products; or

2. 50 parts per million total petroleum hydrocarbons for storage tank systems containing kerosene, diesel or other equivalent petroleum products;

(c) Results of analytical tests on a groundwater sample that:

1. Exceed the cleanup target levels for petroleum products' contaminants of concern specified in Table I of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

(d) After July 13, 1998, results of analytical tests on a soil sample that:

1. Exceed the lower of direct exposure residential and leachability based on groundwater criteria cleanup target levels for petroleum products' contaminants of concern specified in Table II of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above.

(20) "Facility" means a nonresidential location containing, or that contained, any stationary tank or tanks containing, or that contained regulated substances, and that have, or had, individual capacities greater than 110 gallons for UST systems.

(19)(21) "Free product" means the presence of nonaqueous phase liquid in the environment a regulated substance in excess of 0.01 foot in thickness, measured at its thickest point, ~~floating on water, surface water or groundwater.~~

(22) "Hazardous substances" means those substances defined as hazardous substances in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(23) "Heating oil" means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces.

(24) "High viscosity" means a pollutant with a viscosity of 30 centistokes (cSt) and higher at 40 degrees Centigrade.

(25) "Hydraulic lift tank" means a tank that holds hydraulic fluid for a closed-loop mechanical system used to operate lifts, elevators, and other similar devices.

(20)(26) “Hydrostatic test” means a containment integrity test for a storage tank system or storage tank system component that is performed in accordance with this Chapter using equilibrium and the pressure of liquids to ~~test the integrity of the tank or system component.~~

(21)(27) “Impervious” means:

(a) A synthetic material or another material ~~registered~~approved in accordance with subsection 62-761.850(2), F.A.C., that is compatible with the stored regulated substance, and has a permeability rate to the regulated substance stored of 1×10^{-7} cm/sec or less; or,

(b) For concrete structures, a material that:

1. Meets the design and construction standards of Design Considerations for Environmental Engineering Concrete Structures, ACI 350.4R-04, 2004 and Control of Cracking in Concrete Structures (Reapproved 2008), ACI 224R-01, 2008, American Concrete Institute (ACI), published by ACI, 38800 Country Club Drive, Farmington Hills, Michigan 48331, hereby adopted and incorporated by reference ~~ACI 350R-89 and ACI 224R-89~~; or

2. Is applied to the concrete in accordance with Design, Installation, and Maintenance of Coating Systems for Concrete Used in Secondary Containment, SSPC-TU 2/NACE 6G197, July 2009, SSPC: The Coatings Society/NACE International, Published by NACE Reports, SSPC, 40 24th Street, 6th Floor, Pittsburgh, Pennsylvania 15222-4643, or NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and available at the addresses given ~~NACE International Standard RP0892-92. Standard Recommended Practice - Coatings and Linings over Concrete for Chemical Immersion and Containment Service SP0892-2007~~

(22)(28) “In contact with the soil” means any portion of a storage tank system, that physically touches the soil or, if not in direct contact with the soil, is separated from the soil only by a casing, wrapping, or other material that is not impervious, integral piping connected to USTs, or any portion of a tank, that:

(a) ~~Physically touches the soil; or~~

(b) ~~Is not in direct contact with the soil, and is separated from the soil only by a casing, wrapping, or other material that is not impervious.~~

(c) ~~Those portions of integral piping that are elevated and that are not in direct contact with the soil are excluded from this definition.~~

(23)(29) “Incident” is a condition or situation indicating that a release or discharge may have occurred from a storage tank system or system component.

(24) “INF” means Incident Notification Form 62-761.900(6).

(25)(30) “In-service” means a storage tank system which contains greater than one inch or 0.3% by weight of regulated substance, or where the owner or operator has not reported to the Department pursuant to subsection 62-761.405(2), F.A.C., and that the tank is out-of-service pursuant to subparagraph 62-761.800(1)(a)2., F.A.C. ~~is being actively maintained and operated in accordance with this Chapter. Non compliance with any specific rule within this Chapter does not exclude the system from being considered “in service.” Subject to the above, a storage tank system is also considered to be in service if it:~~

(a) ~~Contains regulated substances or has regulated substances regularly added to or withdrawn from the system;~~

(b) ~~Is emptied solely for the purpose of cleaning, routine maintenance, or a change in product, for a time period not exceeding 45 days; or~~

(c) ~~Contains non regulated substances and is still maintained in an in-service status at the request of the owner or operator.~~

(26)(34) “Integral piping” means on-site piping, originating or terminating at the regulated storage tank or tanks, that conveys regulated substances. Integral piping, not including vapor recovery lines and vent lines, includes all valves, elbows, joints, flanges, pumps, and flexible connectors, associated with the pipe originating at the storage tank up to the:

(a) Union of the piping with the dispenser~~dispensing system~~;

(b) Fill cap or fill valve; or

(c) Forwarding pump used for transferring regulated substances to a flow-through process tank or an industrial production or manufacturing point of use; ~~or~~

(d) ~~First flange or connection within the loading rack containment area.~~

(27) “Integrity test” means a determination of the liquid tightness of a storage tank system or system component using one of the following types of tests:

(a) “Interstitial integrity test” means an evaluation of the interstitial space in a double-walled storage tank system or system component using vacuum, pressure, liquid level monitoring systems, or equivalent test methods certified by a Nationally Recognized Testing Laboratory; or

(b) “Primary integrity test” means an evaluation of the liquid tightness of the primary tank or integral piping.

(c) “Containment integrity test” means an evaluation of the liquid tightness of hydrant pits, isolation valve pits, piping sumps, dispenser sumps, and spill containment systems.

(32) “Internal lining” means a material that is applied internally on USTs to protect the tank from internal corrosion.

(28) “Interstice” means the space between the primary and secondary wall of a storage tank system or system component.

(29)(33) “Interstitial monitoring” is a method of release detection in which the interstice is monitored. release detection method that is used to determine the presence of regulated substances or water between the primary and secondary containment. Interstitial monitoring can be performed within:

(a) A closed interstitial space between two steel or impervious barriers that are sealed, not open to the atmosphere, and designed to be tested for a breach of integrity of the interstitial space; or

(b) An open interstitial space between two steel or impervious barriers that are open to the atmosphere, and not designed to be tested for a breach of integrity of the interstitial space.

(34) “Liner” means an impervious material that meets the performance standards of paragraph 62-761.500(1)(d), F.A.C., that is used externally as a method of secondary containment.

(30)(35) “Maintenance” means the normal operational upkeep in accordance with Rule 62-761.700, F.A.C., to prevent a storage tank system or system component from releasing or discharging regulated substances.

(31)(36) “Nationally Recognized Testing Laboratory” means an international or national organization or governmental entity that can perform quantitative and qualitative tests on storage tank system equipment, evaluate the test data and equipment performance, and make determinations of the equipment’s capability of meeting the technical requirementsstandards of this Chapter. A Nationally Recognized Testing Laboratory shall have at least five years of professional storage tank system equipment testing experience. Nationally Recognized Laboratories include organizations such as Underwriter’s Laboratories, Carnegie Mellon Research Institute, Midwest Research Institute, Ken Wilcox Associates, Factory Mutual, and American Board of Engineering and Technology (ABET) Accredited Universities.

(32) “New” means a storage tank system or system component that is installed after (effective date of the rule).

(33)(37) “On-site” means on the same or geographically contiguous property as the facility regulated under this Chapter, that is under the same ownership or control, The property and which may be divided by a public or private right-of-way or an easement.

(34) “Operability test” means a test performed to determine if electronic and mechanical release detection and overfill protection devices or systems are functioning as designed and in accordance with manufacturers specifications.

(38) “Operational life” refers to the period from the start of installation of the storage tank system to the completion of the closure of the storage tank system in accordance with subsection 62-761.800(2), F.A.C.

(39) “Operator” means any person operating a facility, whether by lease, contract, or other form of agreement.

(35)(40) “Out-of-service” means a storage tank system or system component meeting the requirements in subsection 62-761.800(1), F.A.C., and is designated as an out-of-service system by the owner or operator to the Department on Form 62-761.900(2), F.A.C. with notification in accordance with Rule 62-761.405(2), F.A.C. that:

(a) Is designated as an out of service system by owner or operator notification to the Department on Form 62-761.900(2);

(b) Is empty as defined in subsection 62-761.200(18), F.A.C.; and

(c) Does not have regulated substances transferred into or withdrawn from the tank as specified in subsection 62-761.800(1), F.A.C., for a maximum time of:

1. Two years of being taken out of service for USTs; or

2. Ten years of being taken out of service for storage tank systems with secondary containment.

(36)(41) “Overfill” is an incident a release or discharge that occurs when a tank is filled beyond its capacity.

(37) “Overfill protection” is a device or method for preventing an incident, release, or discharge from a storage tank during filling of the storage tank system.

(42) “Owner” means any person as defined in Section 376.301(23), F.S., owning a facility.

(38)(43) “Pesticides” mean any substance or mixture of substances, as defined in 487.201, F.S., intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the Department of Agriculture and Consumer Services by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term “pesticide” does not

include any article that:

(a) Is a "new animal drug" within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act;
(b) Has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or

(c) Is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection, means all preparations, products, and substances included in the Department of Agriculture and Consumer Services' Rule 5E 2.002, F.A.C.

(44) "Petroleum" includes:

(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and

(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph 62-761.200(44)(a), F.A.C.

(45) "Petroleum product" means any liquid fuel commodity made from petroleum.

(a) Forms of fuel considered to be petroleum products include all fuels known or sold as:

1. Diesel fuel;
2. Kerosene;
3. Gasoline; and
4. Fuels containing mixtures of gasoline and other products.

(b) Forms of fuel excluded from this definition are:

1. Liquefied petroleum gas;
2. American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils;
3. Bunker C residual oils;
4. Intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher;
5. Asphalt oils; and
6. Petrochemical feedstocks.

(39)(46) "Pipe" or "piping" means any hollow cylindrical or tubular conveyance through which regulated substances flow.

(40)(47) "Piping sump" or "Submersible turbine pump sump" means a storage tank system component liner installed as secondary containment or a monitoring port at the top of a tank or lowest point in the integral piping to detect releases.

(48) "Pollutants" includes any "product" as defined in Section 377.19(11), F.S., pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(49) "Pressure test" means a test to determine the integrity of integral piping performed in accordance with subparagraph 62-761.640(5)(a)1., F.A.C.

(41)(50) "Pressurized piping" means piping through which regulated substances flow due to a pump that is not located at the dispenser/dispensing system.

(42)(51) "Product" as defined in Section 377.19(11), F.S., means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, used oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(52) "Registered Precision Tank Tester" means a contractor that performs tightness tests on USTs, and small diameter piping connected to USTs, that is registered by the Department of Business and Professional Regulation pursuant to Chapter 489, F.S.

(43) "Registration form" means Storage Tank Facility Registration Form 62-761.900(2).

(44)(53) "Regulated substance" means a liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), that is a pollutant or a hazardous substance, or any mixture of the two, when stored in a storage tank system UST.

(45)(54) "Release" means:

(a) A discharge; or

(b) A loss of regulated substances from a storage tank system or system component into the system's secondary containment.

(46)(55) "Release detection" means a method of:

(a) ~~Determining whether a discharge of regulated substances has occurred; or~~

(b) ~~detecting the presence of regulated substances within a storage tank system's or system component's secondary containment; and/or detecting other conditions or situations indicative of a release or discharge.~~

(56) ~~"Release detection response level" is the point of measurement, calculation, observation, or level that is established for each individual release detection device or method at which an investigation must be initiated to determine if an incident, release, or discharge has occurred.~~

(47)(57) ~~"Repair" means to restore or replace any defective or damaged parts of a storage tank system or system component; in accordance with Rule 62-761.700, F.A.C. Replacement of a non-defective part is not a repair.~~

(48)(58) **"Residential storage tank system"** means a storage tank system that services a non-commercial building that is used exclusively as a dwelling unit which means a structure that is used as a home or residence by one or more persons who maintain a common household, excluding transient occupancies, is located on property used primarily for dwelling purposes, and the storage and use of regulated substances in the tank is for residential purposes.

(49)(59) ~~"Secondary containment" means a release detection and discharge prevention system that meets the performance requirements standards of paragraph 62-761.500(1)(b), F.A.C., and includes dispenser sumps liners, piping sumps, spill containment systems, the outer wall of double-walled tanks and integral piping, or the liner systems, or single-walled tanks or piping systems that are contained within a liner or an impervious containment area surrounding single-walled tanks or integral piping.~~

(50)(60) ~~"Sheen" means a regulated substance less than or equal to 0.01 foot in thickness, measured at its thickest point, or visibly observed, floating on surface water, groundwater, or within secondary containment.~~

(61) ~~"Significant loss or gain" means the sum of losses and gains of a regulated substance over a 30 day or monthly period that exceeds:~~

(a) ~~For tanks with capacities between 111 and 2,000 gallons with an individual flow through less than 5,000 gallons during the previous 30 days:~~

1. ~~One percent of the tank capacity; or~~
2. ~~One percent of the total weekly output; or~~
3. ~~Fifty gallons, whichever is greatest; or~~

(b) ~~For tanks with capacities greater than 2000 gallons, or tanks with an individual flow through exceeding 5,000 gallons during the previous 30 days:~~

1. ~~One percent of the tank capacity; or~~
2. ~~One percent of the amount of product dispensed during the previous 30 days, plus 130 gallons, whichever is greatest.~~

(62) ~~"Small diameter piping" means integral piping with an internal diameter of three inches or less that is utilized for transporting regulated substances.~~

(51) ~~"Spill containment system" means a fixed component that is designed to prevent a discharge of regulated substances from the tank fill pipe.~~

(52)(63) ~~"Storage tank system" means a tank used to contain regulated substances, its integral piping, and all its components, including dispensers dispensing systems, spill containment systems devices, overfill protection systems devices, secondary containment systems, and any associated release detection equipment. A storage tank system is a "storage system" as defined in Chapter 376.301, F.S.~~

(53) **"Storage tank system component" or "system component" means any part (mechanical, electrical, and plumbing) of the storage tank system that is essential** for a tank system to operate properly and safely. This includes tanks, integral piping, sensors, sumps, pumps, including dispensers, spill containment systems, overfill protection systems, secondary containment systems, and any associated release detection equipment.

(54)(64) ~~"Suction piping" means piping through which regulated substances flow due to a pump located at the dispenser dispensing system.~~

(55)(65) ~~"Tank" means an enclosed stationary container or structure that is designed or used to store regulated substances, and the volume of which, including the volume of underground piping, is ten percent or more buried beneath the surface of the ground.~~

(66) ~~"Tightness test" means a test for an underground storage tank or its small diameter piping that is performed in accordance with subparagraphs 62-761.640(3)(f)1. and (4)(b), F.A.C., by a precision tank tester registered with the Department of Business and Professional Regulation under Chapter 489, F.S.~~

(67) ~~"UST" means an underground storage tank.~~

(68) ~~"UST Category A system" means a system containing pollutants that was installed on or before June 30, 1992, or a system containing hazardous substances that was installed before January 1, 1991.~~

(69) ~~"UST Category B system" means a system containing pollutants that was installed after June 30, 1992, or a~~

system containing hazardous substances that was installed on or after January 1, 1991, and before July 13, 1998.

(70) “~~UST Category C system~~” means a system that was installed on or after July 13, 1998. USTs that are removed and relocated on or after July 13, 1998 are considered Category C systems.

(71) “~~Unmaintained~~” means:

(a) ~~A storage tank system that was not closed in accordance with Department rules; or~~

(b) ~~An out of service storage tank system that is not returned to in-service status within:~~

1. ~~Two years of its being out of service for USTs; or~~

2. ~~Ten years of its being out of service for storage tank systems with secondary containment.~~

(72) “Upgrade” means the addition or retrofit of cathodic protection, internal lining, spill prevention, overfill protection, or secondary containment, to a storage tank system, or the installation of single wall corrosion resistant storage tanks, to improve the ability of the storage tank system to prevent discharges of regulated substances.

(56) “Vapor Corrosion Inhibitor” (VCI) means a chemical substance that volatilizes from a liquid or solid through vapor pressure and then moves freely within an enclosed airspace where the molecules preferentially adsorb onto metal surfaces and create a protective layer that inhibits the corrosive action of water, oxygen, acid gas molecules, and other corrosive agents with the metal surfaces.

Retention of this language is important in defining vapor-corrosion inhibitor technology that is currently being used in sump corrosion prevention efforts and for developing applications for USTs. It does no harm and will had value and understanding to tank owners and operators.

(73) “~~Vehicular fuel~~” means a petroleum product used to fuel motor vehicles, including aircraft, watercraft, and vehicles used on and off roads and rails.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 489.133 FS. History—New 12-10-90, Amended 5-4-92, 3-8-94, Formerly 17-761.200, Amended 9-30-96, 7-13-98, 6-21-04,_____.

Substantial rewording of Rule 62-761.210, F.A.C., follows. See Florida Administrative Code for present text.

62-761.210 Reference RequirementsStandards.

(1) Referenced requirements are available for inspection at the County Offices, and the Department of Environmental Protection’s District and Tallahassee Offices, and directly from the source.

(2) Titles of documents. References to documents listed in paragraphs 62-761.210(2)(a) through (j), F.A.C., below are made throughout this Chapter. Each document or part thereof is adopted and incorporated as a guideline only to the extent that it is specifically referenced in this Chapter. To the extent that the provisions contained in the following reference requirements conflict with this Chapter, the Department’s requirements as stated in this Chapter shall control.

(a) American Petroleum Institute (API), 1220 L Street, N.W. Washington, D.C. 20005, (202) 682-8000, or at <http://www.api.org/>.

1. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996;

2. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011;

3. Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996; and

4. Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006.

(b) ASME International (founded as the American Society of Mechanical Engineers), 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800) 843-2763, or at <http://www.asme.org/>; Process Piping, B31.3-2004, 2012 Edition.

(c) NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, (800) 797-6223, or at <http://www.nace.org/>;

1. Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition; and

2. Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition.

(d) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (800) 344-3555, or at www.nfpa.org/;

1. Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition;
 2. Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C), 2012 Edition; and
 3. Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition.
 - (e) National Institute of Standards and Technology (NIST), NIST, 100 Bureau Drive, Stop 1070, Gaithersburg, MD 20899-1070, (301) 975-NIST (6478), or at <http://www.nist.gov/index.html>.
 - (f) National Leak Prevention Association (NLPA), Route 2 Box 106A, Falmouth, Kentucky 41040, (702) 832-2260, or at <http://www.nlpa-online.org/>; **NLPA Standard 631, 1991.**
 - (g) Petroleum Equipment Institute (PEI), Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918) 494-9696, or at www.pei.org/;
 1. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition; and
 2. Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition.
 - (h) Steel Tank Institute (STI), 944 Donata Court, Lake Zurich, Illinois 60047, (847) 438-8265, or at <https://www.steeltank.com/>;
 1. sti-P3[®] Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3[®], Rev. 2013; and
 2. Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006;:
 3. Cathodic Protection Testing Procedures for sti-P3[®] UST's, STI R051-06, (R051), Rev. January 2006;
 4. Storage Tank Maintenance STI R111, (R111), Rev. July 2011;
 5. Recommended Practice for the Addition of Supplemental Anodes to sti-P3[®] USTs, STI R972, Rev. January 2006;
 6. Standard for Dual Wall Underground Steel Storage Tanks, F841, Rev. January 2006;
 7. Specification for External Corrosion Protection of FRP Composite Steel USTs - ACT-100[®], F894, Rev. September 2011;
 8. Permatank[®]: Specification for Permatank[®], F922, Rev. January 2013; and
 9. Specification for External Corrosion Protection of Composite Steel USTs - ACT-100-U[®], F961, Rev. September 2013.
 - 10. Standard for Inspection, Repair, and Modification of Shop-fabricated Underground Tanks for Storage of Flammable and Combustible Liquids, STI SP131, Rev. August 2014.**
 - This is a new standard that is important standard that has the support of Paul Miller from EPA.*
 - (i) Underwriters Laboratories Standards (UL), 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847) 272-8800, or at www.ul.com/;
 1. Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition;
 2. Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition;
 3. Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition; and
 4. External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition.
 5. Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems, UL 1856, 2013 Edition.
 - (j) U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001, (202) 512-1800, or at www.gpo.gov/;
 1. Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST), Title 40, Part 280, July 2008; Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001; and
 2. Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, Published by Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001.
 - (3) Applicability of Reference Requirements: Unless otherwise specified in this Chapter, **facilities installed after June 30, 1992**, and before *(effective date of the rule)* are subject to the Reference Requirements listed in the Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities installed after *(effective date of the rule)* shall comply with this subsection on or after *(effective date of the rule)*.
- Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New12-10-90, Amended 7-13-*

98, 6-21-04, _____.

62-761.300 Applicability.

(1) General Requirements:

(a) ~~Underground storage tank systems:~~ The requirements of this Chapter, unless specified otherwise, apply to owners and operators of facilities, ~~and owners and operators of underground storage tank UST systems with individual storage tank capacities greater than 110 gallons, that contain or contained regulated substances. Unless otherwise specified in this Chapter, facilities installed after June 30, 1992, and before (effective date of the rule) are subject to the Reference Requirements listed in the Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities installed after (effective date of the rule) shall comply with this subsection on or after (effective date of the rule).~~

1. ~~Vehicle fuel, subject to Chapter 17-61, F.A.C., after May 21, 1984;~~

2. ~~Pollutants or hazardous substances after December 10, 1990; or~~

3. ~~Regulated substances in unmaintained storage tank systems.~~

(b) ~~This rule is applicable to non-residential facilities. Under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal UST rules (advisory information only not required by this Chapter).~~

(2) Exemptions: The following ~~underground systems~~ are exempt from the requirements of this Chapter:

(a) Any storage tank system storing any hazardous waste listed or identified under Subtitle C of the Resource Conservation and Recovery Act, or a mixture of such hazardous waste and other regulated substances;

(b) Any storage tank system regulated under the Toxic Substances Control Act (15 U.S.C. 2065);

(c) Any pesticide waste degradation system regulated under Chapter 62-660, F.A.C.;

(d) Storage tank systems used solely for temporary storage of mixtures of pesticides and diluent for reapplication as pesticides;

(e) Any storage tank system with a storage capacity of less than 30,000 gallons used for the sole purpose of storing heating oil for consumptive use on the premises where stored. "Heating oil" means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces;

(f) Any tank that contains asphalt or asphalt products not containing other regulated substances;

(g) Any storage tank system storing regulated substances that are solid or gaseous at standard temperature and pressure;

(h) Any storage tank containing Liquid Petroleum Gas;

(i) Any storage tank system that:

1. Contains a regulated substance at a concentration of less than two percent for pollutants and below the reportable quantities for hazardous substances under 40 C.F.R. 302; and

2. Was never previously regulated under Chapter 376.30 through 376.309, F.S. or this Chapter; contains small quantities (de minimus, as per 40 C.F.R. Section 280.10(b)(5)) of regulated substances;

(j) Any storage tank system that contains wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;

(k) Any septic tank system;

(l) Any stormwater or wastewater collection system, including oil-water separator tanks;

(m) Any surface impoundment, pit, pond, or lagoon;

(n) Any agricultural storage tank system of 550 gallons capacity or less that is used for agricultural purposes;

(o) Any residential storage tank system used solely for residential purposes. However, under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal underground storage tank rules;

(p) Any emergency spill or emergency overflow containment storage tank system that is emptied as soon as possible after use, and that routinely remains empty;

(q) Any flow-through process tank system. For industrial and manufacturing facilities, integral piping is considered to terminate at the forwarding pump or valve used to transfer regulated substances to process, production, or manufacturing points of use or systems within the facility;

(r) Any storage tank system, liquid trap, or associated gathering lines directly related to oil or gas production and gathering operations regulated by Chapter 377, F.S.; however, this exclusion does not apply to storage tanks that contain refined products;

(s) Any equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift or fluid tank systems that hold hydraulic fluid for closed-loop mechanical systems used to operate lifts,

elevators, and other similar devices and dielectric fluid (cooling and lubricating oil) systems used for electrical equipment and electrical equipment tank systems;

(r)(t) Any pipeline, piping and “break-out” tanks directly connected to the pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration, pursuant to Title 49, Parts 190-199 of the Code of Federal Regulations facilities;

(s)(u) Any storage tank system containing radionuclides or that is part of an emergency generator system for nuclear power generation at facilities regulated by the Nuclear Regulatory Commission under 10 C.F.R. Part 50 Appendix A;

(t)(v) Any vapor recovery holding tanks and associated vapor recovery piping systems; or

(u) Any storage tank system containing biofuel that has a concentration of regulated substance of five percent or less by volume.

(v)(w) Any rail or tanker truck loading or unloading operations (loading racks) specified in Chapter 5 of NFPA 30.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.300, Amended 7-13-98, 6-21-04, _____.

62-761.350 Operator Training and Certification (Reserved for Rulemaking)

62-761.400 Registration and Financial Responsibility.

(1) For installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction begins.

(b) A completed Form 62-761.900(2), Storage Tank Facility Registration Form (Registration Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the Department **no later than 30 days prior to installation**. Copies of the Registration Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(c) A completed Form 62-761.900(5), Underground Storage Tank System Installation and Removal Form for Certified Contractors (Certified Contractors Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the County no later than 21 days after installation of a storage tank system, **storage tank or integral piping**. Copies of the Certified Contractors Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or, www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(2) For change in service status or closure pursuant to Rule 62-761.800, F.A.C.:

(a) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days after completion of the change in service status.

(b) A completed Certified Contractors Form shall be submitted to the County in paper or electronic format no later than 10 days after removal of a storage tank system.

(3) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days of the following changes or discovery:

(3) Financial responsibility.

(a) Any change in the owner or operator of a facility or of a storage tank system.

(a) General requirements.

1. The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance. Financial responsibility is only required for tanks containing petroleum or petroleum products. Financial responsibility is the ability to pay for corrective action and third party liability resulting from a discharge at the facility.

2. The demonstration of financial responsibility shall be made by the owner or operator in accordance with C.F.R. Title 40, Part 280, Subpart H.

3. Financial responsibility requirements for petroleum storage systems containing petroleum products may be supplemented by participation in the Florida Petroleum Liability Restoration and Insurance Program to the extent

provided by Section 376.3072, F.S.

4. ~~Notwithstanding the owner's or operator's financial responsibility status, the owner or operator may, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.~~

(b) ~~Any change or correction in the information reported in the Registration Form. A change within the same blend of regulated substances should not be reported (e.g., regular unleaded to premium unleaded gasoline);~~

(b) ~~The minimum requirements for financial responsibility for USTs containing petroleum or petroleum products shall be the same as provided by C.F.R. Title 40, Part 280, Subpart H.~~

(c) ~~A change from a regulated substance to a non-regulated substance; and~~

(d) ~~The discovery of an unregistered storage tank system.~~

~~(1) General registration requirements.~~

~~(a) The owner or operator of any facility, or the owner or operator of a storage tank system shall register the storage tank system with the Department on Form 62-761.900(2).~~

~~(b) A completed registration form shall be submitted to the Department no later than 30 days after regulated or hazardous substances are put into any new storage tank system.~~

~~(4)(2) Registration fees.~~

(a) Registration fees are due from the tank or facility owner or operator, as indicated in this section, for all registered storage tank systems required to be registered. Registration fees except for storage tank systems that have been properly closed in accordance with subsection 62-761.800(2), F.A.C., will no longer be due once any outstanding fees have been paid.

(b) ~~A registration fee of \$50.00 per tank or vessel shall be submitted for each initial registration of a storage tank system. The fee shall be paid within 30 days after receipt of an invoice by the Department.~~

(c) ~~A renewal fee of \$25.00 per tank shall be paid to the Department for each storage tank system not meeting the closure requirements of subsection 62-761.800(2), F.A.C. by July 1 each year.~~

(d) ~~A replacement fee of \$25.00 per tank shall be paid to the Department for each tank that is replaced for the purpose of facility upgrading, within 30 days after receipt of an invoice by the Department.~~

(e) ~~A late fee of \$20.00 per tank shall be paid to the Department for any renewal that is received after July 31.~~

(f) Upon receipt of payment of all applicable initial registration fees and annual renewal fees, each facility shall receive a registration placard, pursuant to Section 376.3077, F.S. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the storage tank system is located. Posted on the Department website will be information regarding those motor fuel facilities who have not timely paid their registration fees. Each facility shall receive a registration placard upon payment of all applicable fees. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the tank is located.

(5) Unless a current registration placard is displayed in plain view as required by paragraph 62-761.400(4)(f), F.A.C., no motor fuel may be deposited into a storage tank required to be registered pursuant to this Rule. Facility owners, operators and suppliers are each responsible for compliance with this provision.

(6) Revocation of Registration Placard. (Reserved for Rulemaking)

(7) Delivery prohibitions. (Reserved for Rulemaking)

Rulemaking Specific Authority 376.303, 376.322(2) FS. Law Implemented 376.303, 376.309, 376.323, 376.3077, 489.133 FS. History—New 12-10-90, Formerly 17-761.400, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.405 Notification.

(1) For Installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction will begin.

(b) Notification shall be received by the County in writing or electronic format between 30 and 45 days before installation of a storage tank system or system component unless the County agrees to a shorter time period.

(c) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the installation work to confirm the date and time of the scheduled activities.

(2) For change in service status and closure:

(a) Notification shall be received by the County in writing or electronic format between 10 and 25 days before the initiation of the work unless the County agrees to a shorter time period.

(b) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the initiation of the work to confirm the date and time of the scheduled activities.

(c) Closure Integrity Evaluation reports prepared in accordance with paragraph 62-761.800(3)(a), F.A.C., must be provided to the County with the notification of closure or change in service from a regulated substance to a non-regulated substance.

(3) Notification of the discovery of an incident shall be made to the County in writing or electronic format on Form 62-761.900(6), Incident Notification Form (INF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 72 hours of the discovery or before the close of the county's next business day; however, an INF need not be submitted if, within 72 hours of discovery, the investigation of the incident in accordance with Rule 62-761.430, F.A.C., confirms that a discharge did or did not occur. Copies of the INF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(4) Notification of the discovery of a discharge shall be made to the County in writing or electronic format on Form 62-761.900(1), Discharge Report Form (DRF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 24 hours of the discovery or before the close of the County's next business day. Copies of the DRF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.450, 62-761.450, Amended 9-30-96, 7-13-98, 6-21-04.

62-761.420 Financial Responsibility.

(1) Financial responsibility is the ability to pay for cleanup of a discharge and third-party liability resulting from a discharge of petroleum or petroleum product at the facility.

(2) The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department for all storage tank systems until they are properly closed. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance.

(3) The demonstration of financial responsibility for storage tank systems shall be made available for inspection by the Department or the County and shall be in accordance with Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST) – Financial Responsibility, Title 40, Part 280, Subpart H, July 2008, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, hereby adopted and incorporated by reference, and is available from the address given or www.flrules.org/Gateway/reference.asp?No=Ref-000###.

(4) Notwithstanding the owner's or operator's financial responsibility status, the owner and operator shall, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.

(5) Financial responsibility mechanisms may not include choice of law and venue in favor of jurisdictions other than Florida.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.309, 403.091 FS. History--Formerly 62-761.400, Amended

62-761.430 Incidents.

(1) Incidents include:

(a) The following positive responses of release detection devices or methods described in Rule 62-761.600, F.A.C.:

1. Any visual inspection of any part of a storage tank system, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances that reveals significant pitting corrosion with more than a fifty percent loss of its original design thickness or that may adversely affect design integrity, or cracking, splitting, blistering, delamination, signs of corrosion, structural damage, leakage, or other similar problems with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C.;

This is a significant issue and potential deal-breaker with industry. The 50% value is quantifiable and supportable. Anything else is subjective with the potential for inspector bias or misinterpretation.

2. Any visual observation of regulated substances in a piping or dispenser sump;
 3. Any alarm that indicates that liquid, vacuum, or pressure monitoring levels are not being maintained, or that liquid has been detected by a sensor in a normally dry interstice;
 4. Any visual observation that indicates that liquid monitoring levels are not being maintained;
 5. Any vacuum or pressure change of 50% from one month to the next, or any cumulative change of vacuum or pressure exceeding 50% of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge;

6. Any visual inspection that indicates the presence of groundwater or surface water, other than condensate, and/or regulated substances in the interstice;

7. Any instance where a mechanical line leak detector is restricting flow;

8. Any instance where an electronic line leak detector has shut off power to the pump;

9. Any instance where a monitoring device has shut off the pump; and

10. Liquid in excess of one inch in an out-of-service storage tank.

(b) A failed integrity test for the following components:

1. Double-walled storage tanks;

2. Double-walled integral piping;

3. Piping sumps;

4. Dispenser sumps; and

5. Spill containment systems.

(c) Other unusual operating conditions, such as the erratic behavior of product dispensing equipment, the sudden loss of product from a storage tank system, or any unexplained presence of groundwater or surface water in a tank or an interstitial space;

(d) The presence of odors of a regulated substance from surface water or groundwater, soil, basements, sewers and utility lines at a facility or in the surrounding area from which it could be reasonably concluded that a release or discharge may have occurred; and

(e) The loss of a regulated substance from a storage tank system, such as from an overflow, spills in the dispensing area exceeding 25 gallons on impervious surfaces, other than secondary containment, provided that the loss does not come in contact with pervious surfaces.

Makes it consistent with the intent section of the federal register for the 25 gallon requirement

(2) If an incident occurs at a facility, actions shall be taken within 24 hours of discovery to investigate the incident to determine if a discharge has occurred.

(3) Notification of the discovery of any incident shall be made to the County in writing or electronic format on an INF within 72 hours of the discovery or before the close of the County's next business day. However, an INF is not required to be submitted if, within 72 hours of discovery, the investigation of the incident confirms that a discharge did or did not occur.

(4) In cases where an INF is required to be submitted, the investigation shall be completed within 14 days of the date of discovery of the incident to determine if a discharge has occurred. Incident investigations that require additional time can be extended with the written approval of the Department or the County. However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system shall be placed out-of-service until such time the investigation is completed and resolved.

(5) At the end of the 14 day time period, or at the end of the alternate time period approved by the Department or the County to investigate the incident, either a DRF or a written confirmation and explanation that the incident was not a discharge, including documentation showing that contamination is the manifestation of a previously reported discharge, shall be submitted to the County in writing or electronic format.

(6) The removal of any spill or loss of regulated substance into secondary containment shall be initiated within three days of discovery, and completed within thirty days of discovery.

(7) If a discharge is discovered at any time during the incident investigation, the discharge shall be reported on a DRF within 24 hours of discovery, or before the close of the next business day, and a discharge response shall be initiated in accordance with subsection 62-761.440(6), F.A.C.

(8) All incidents, regardless of whether an INF is required to be submitted, shall be documented and records kept until storage tank system closure in accordance with Rule 62-761.710, F.A.C. Test results or reports, which support the investigation findings, shall be maintained as records.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—Formerly 62-761.820, Amended .

62-761.440 Discharges.

(1) Discharges include:

(a) Laboratory analytical results of surface water or groundwater samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C.;

(b) Laboratory analytical results of soil samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C. that exceed the lower of direct exposure residential or leachability based on groundwater criteria cleanup target levels in Chapter 62-777, F.A.C.;

(c) The presence of free product, a visible sheen, sludge, or emulsion of a regulated substance, or a regulated substance that is visibly observed in soil, on or in surface water, in groundwater samples, on basement floors, in open drainage ditches, in open excavations or trenches, in subsurface utility conduits or vaults, or in sewer lines at the facility; and

(d) A spill or overflow of a regulated substance to a pervious surface.

(2) Upon discovery of a discharge, the owner or operator shall report the discharge to the County on a DRF within 24 hours or before the close of the County's next business day.

(3) Copies of laboratory analytical results that confirm a discharge shall be submitted to the County within 24 hours of receipt of the results or before the close of the next business day in writing or electronic format.

(4) A request for a retraction of a submitted DRF shall be submitted to the County or the Department in writing or electronic format if evidence is presented that a discharge did not occur at the facility.

(5) A DRF does not need to be submitted:

(a) For a discharge that was previously reported to the appropriate County or the Department on a DRF;

(b) For petroleum or petroleum product de minimis discharges in accordance with subsection 62-780.560(1), F.A.C., unless the regulated substance has a more stringent reporting requirement specified in the following document which is hereby adopted and incorporated by reference, and is available from the address given: Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, or www.flrules.org/Gateway/reference.asp?No=Ref-000###; or

(c) For non-petroleum de minimis discharges in accordance with Rule 62-780.550, F.A.C., unless the pollutant has a more stringent reporting requirement specified in Title 40, Part 302.

(6) Discharge response.

(a) When evidence of a discharge from a storage tank system is discovered, the following actions shall be taken:

1. Fire, explosion, and vapor hazards shall be identified and mitigated;

2. Actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules (e.g., Chapter 62-780, F.A.C., Contaminated Site Cleanup Criteria). Owners and operators are advised that other federal, state, or local requirements apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with Chapter 62-780, F.A.C.;

3. Each component of the storage tank system shall be integrity tested within three days of discovery of the discharge if the source and/or cause of the discharge is unknown unless the storage tank system has been properly placed out-of-service in accordance with subsection 62-761.800(1), F.A.C.;

4. The storage tank system component that is discharging shall be isolated from the system within three days of discovery of the discharge. If the component cannot be isolated from the system, within three days of discovery of the discharge the storage tank system shall not operate, dispense, or accept deliveries, or shall be placed out-of-service in accordance with Rule 62-761.800, F.A.C., until the component can be repaired or replaced;

5. If the storage tank system component that was found to be discharging will be repaired, it shall be repaired in accordance with Rule 62-761.700, F.A.C.;

6. If the storage tank system component that was found to be discharging will be replaced, it shall meet the storage tank system requirements in accordance with Rule 62-761.500, F.A.C.; and

7. If the storage tank system component that was found to be discharging will not be repaired or replaced, the storage tank system, if not already out-of-service, shall be placed out-of-service within 90 days or be closed in accordance with Rule 62-761.800, F.A.C.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—Formerly 62-761.820, Amended .

62-761.450 Notification and Reporting.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.450, Amended 9-30-96, 7-13-98, 6-21-04., Repealed

Substantial rewording of Rule 62-761.500, F.A.C., follows. See Florida Administrative Code for present text.

62-761.500 Performance Standards for Category C Storage Tank Systems Requirements.

(1) General requirements.

(a) Wellhead Protection. Persons are advised that Chapter 62-521, F.A.C., contains restrictions regarding the location of storage tank systems within 500 feet of a potable water well.

(b) Secondary containment.

1. The materials used for secondary containment shall be:

a. Impervious to the regulated substance and able to withstand deterioration from external environmental conditions;

b. Non-corrosive or of corrosion-protected materials or by vapor corrosion inhibitor technologies; and

c. Of sufficient thickness and strength to withstand hydrostatic forces at maximum capacity to prevent a discharge.

2. For cathodically protected tanks and integral piping, secondary containment systems shall not interfere with the operation of the cathodic protection system. For vapor corrosion inhibitor protected tanks, the secondary containment system shall provide containment for the vapor corrosion inhibitors.

This language will allow the use of vci technology to protect the interstices of double-wall steel tanks.

3. Secondary containment systems shall be designed and installed to direct any release to a monitoring point or points.

4. Containment and interstitial, as applicable, integrity tests shall be performed for all spill containment systems, piping sumps, hydrant sumps, and dispenser sumps before placing the components into initial use. The tests shall be in accordance with manufacturer's requirements. If a hydrostatic test is used, it shall be performed for at least:

a. Twenty-four hours for field-fabricated components; or

b. Three hours for factory-made components.

5. An interstitial integrity test shall be performed on the storage tank after it is delivered and installed at the facility and before the storage tank is placed into service. This test shall be performed in accordance with manufacturer's requirements or with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition, Petroleum Equipment Institute (PEI), Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380, and Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition, Petroleum Equipment Institute (PEI) Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380.

6. An interstitial integrity test shall be performed on integral piping in accordance with PEI/RP100-11 and PEI/RP1200-12 before the integral piping is placed into service.

7. If double-walled spill buckets or double-walled sumps are installed on the system, an interstitial integrity test shall be performed in accordance with PEI/RP1200-12 before the component is placed into service.

(c) Cathodic protection.

1. Test stations. Cathodic protection systems shall be designed, constructed, and installed with test stations in accordance with NACE standards contained in paragraph 62-761.210(2)(c), F.A.C. Cathodic protection test stations shall provide direct access to the soil in close proximity to each cathodically protected structure for placement of reference electrodes, and monitoring wires that connect directly to cathodically protected structures. Facilities where direct access to soil in close proximity to cathodically protected structures is present, and where electrical connections to cathodically protected structures can be conveniently accomplished, need not have separate dedicated cathodic protection test stations.

2. The cathodic protection system shall be operated and maintained in accordance with subsection 62-761.700(2), F.A.C.

3. Any field-installed cathodic protection system shall be designed and installed by or under the direction of a Corrosion Professional.

4. Cathodic protection is not required for any field-fabricated primary storage tank that has been installed within a former single-walled storage tank as a means to upgrade to secondary containment. However, the former single-walled storage tank, which now becomes the secondary containment must be protected from corrosion.

5. Supplemental anodes that are added to a sti-P3 tank can be installed according to STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs.

(d) Compatibility. The primary and secondary walls of storage tank systems shall be made of, or internally lined with, materials that are compatible with the regulated substance stored in the storage tank systems and with substances or conditions present in the environment. All storage tank systems containing blends of ethanol, biodiesel, or other biofuels and additives shall be compatible with the regulated substances stored in the storage tank systems.

(e) All components of a storage tank system shall be installed in accordance with the manufacturer's instructions.

(f) All storage tank systems shall be installed in accordance with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070.; Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Process Piping, B31.3-2004, 2012 Edition, ASME International (founded as the American Society of Mechanical Engineers), Published by ASME, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900; and PEI/RP100-11. Storage tanks with field-fabricated internal secondary containment shall be installed in accordance with manufacturer's specifications, UL 1856, and NLPA 631, hereby adopted and incorporated by reference, and are available from the addresses given.

(g) A Certified Contractor shall perform the installation of storage tank systems containing pollutants, including tanks, integral piping (excluding drop tubes), overfill protection and spill containment equipment, internal release detection equipment, cathodic protection systems, secondary containment systems, and dispensers, if the installation of the storage tank system component disturbs the backfill, or where the integral piping is connected or disconnected during installation.

(h) Whenever storage tanks and/or integral piping are installed or relocated after the *(the effective date of the rule)*, Record Drawings ("as-builts"), signed and sealed by a professional engineer licensed in the state of Florida, shall be completed and maintained as a record in accordance with Rule 62-761.710, F.A.C. The as-built drawing shall include all construction and equipment design specifications including exact dimensions, geometry, and locations of the storage tanks and/or integral piping, of the work completed under contract, and any changes made to the original specifications during the construction process. As-built drawings are not required for tanks that are installed or retrofitted with internal secondary containment.

(2) Storage Tanks.

(a) All storage tanks at a facility shall have secondary containment and shall be constructed or installed to provide for interstitial monitoring of the entire storage tank.

(b) Fiberglass reinforced plastic double-walled tanks shall be constructed in accordance with the following document, Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference and available at the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(c) Cathodically protected double-walled steel tanks shall be:

1. Constructed in accordance with the following documents, or as applicable: Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, and External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and are available from the addresses given;

2. Constructed in accordance with the following document, sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given ; or

3. Constructed in accordance with the following document, STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given; or

4. Certified by a Nationally Recognized Testing Laboratory for any field-installed cathodic protection system, that these requirements are met, constructed and designed by a Corrosion Professional in accordance with the following document, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and is available from the address given.

(d) Double-walled steel tanks coated with a fiberglass reinforced plastic composite jacketed steel tanks shall be constructed in accordance with UL 58 and UL 1746, ACT-100® Specification for External Corrosion Protection of FRP Composite Steel USTs - F894, Rev. September 2011, Steel Tank Institute (STI), 944 Donata Court, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

Clarification

(e) Jacketed steel tanks shall be constructed in accordance with UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(f) Double-walled storage tanks that meet the above performance requirements, that are constructed of equivalent material, have an equivalent design, or are corrosion protected shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(g) Tanks shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(h) Double-walled storage tanks that have been removed and that are to be reinstalled at a different location shall:

1. Be recertified that all original warranties are confirmed by the original manufacturer or the manufacturer's successor, and be reinstalled in accordance with the requirements in this section; or

2. Be recertified by a professional engineer licensed in the state of Florida that the storage tank meets all applicable requirements of this section; and

3. Proof of recertification shall be provided to the Department and County prior to the start of installation. The storage tank shall be re-registered in accordance with subsection 62-761.400(1), F.A.C.

(3) Integral piping.

(a) All integral piping, including remote fill piping that is in contact with the soil shall have secondary containment; or

(b) All integral piping that transports regulated substances over surface waters of the state shall have secondary containment and shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials; or

(c) All integral piping that is not in contact with the soil shall meet the construction requirements in paragraphs 62-761.500(3)(d)2. through 4., F.A.C., shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials.

(d) Construction requirements.

1. Fiberglass reinforced plastic integral piping or other non-metallic double-walled integral piping installed in contact with the soil at a facility shall meet the requirements of Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.

2. Coated steel double-walled integral piping shall be constructed in accordance with ASME B31.3. In addition, steel integral piping in contact with the soil shall be cathodically protected in accordance with the following documents: Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070; Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906; and Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and

available from the addresses given.

3. Metallic double-walled integral piping constructed of nonferrous materials such as copper shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, Piping Systems.

4. Integral double-walled piping constructed of other materials, design, or corrosion protection shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(e) Integral piping shall be installed with a slope to a low point monitoring system to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(f) Pressurized integral piping systems connected to dispensers shall be installed with shear valves or emergency shutoff valves in accordance with Section 6.3 of NFPA 30A, Requirements for Dispensing Devices. These valves shall be designed to close automatically if a dispenser is displaced from its normal position. The valves shall be rigidly anchored independently of the dispenser. The valves shall be tested in accordance with PEI/RP1200-12 at the time of installation by a certified contractor to confirm that the automatic closing function of the valve operates properly and that the valve is properly anchored.

(g) All storage tanks located at an elevation that produces a gravity head on the dispenser or on integral piping positioned below the product level in the storage tank must be installed and maintained with an isolation block valve in accordance with Chapter 22.13 of NFPA 30, Tank Openings Other Than Vents, and located as close as practical to the storage tank. In addition, anti-siphon valves for suction and pressurized systems with dispensers that are subject to NFPA 30A, shall be installed and maintained in accordance with Section 11.2 of NFPA 30A, Marine Fueling - Storage. Storage tank systems without dispensers shall be installed with valves that will prevent the tanks from emptying if there is a leak or break in the integral piping.

(h) Storage tank systems using corrosion protection systems with vapor corrosion inhibitors that are registered in accordance with Rule 62-762.851(2), F.A.C. shall be designed and installed under the direction of a Corrosion Professional.

(Allows the use of VCI's for interstitial corrosion protection)

(4) Spill containment systems.

(a) Storage tank systems shall be installed with a spill containment system at each tank fill connection meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C..

(b) Fillbox covers shall be marked or the fill connection tagged in accordance with Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, hereby adopted and incorporated by reference, and is available from the address given, or with an equivalent method approved by the Department in accordance with subsection 62-761.850(1), F.A.C.

(c) Spill containment systems, including double-walled spill containment systems shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(5) Dispensers and dispenser sumps.

(a) The dispensers used for transferring fuels from storage tanks to vehicles or portable containers shall be installed and maintained in accordance with the provisions of NFPA 30 and Chapter 6, Fuel Dispensing Systems; Chapter 9, Operational Requirements; and Chapter 11, Marine Fueling of NFPA 30A.

(b) Dispensers shall be installed with a dispenser sump meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C. The dispenser sump shall extend beneath the union of the integral piping and the dispenser, including the shear valve, if applicable.

(c) Dispenser sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. The dispenser sump shall be capable of containing a release for the entire area beneath the dispenser.

(6) Piping sumps.

(a) Piping sumps shall meet the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and be registered in accordance with subsection 62-761.850(2), F.A.C. The sumps shall be designed, constructed, and installed to minimize water entering the sump.

(b) Piping sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(7) Overfill protection.

(a) Owners or operators shall ensure that the volume available in the storage tank is greater than the volume of regulated substances to be transferred to the storage tank before the transfer is made and shall ensure that any transfer is repeatedly monitored to prevent overfilling and spilling.

(b) Storage tank systems shall be equipped with an overfill device that:

1. Automatically shuts off flow to the storage tank when the storage tank is no more than 95% full;

2. Restricts flow to the storage tank when the storage tank is no more than 90% full and does not fill the storage tank beyond 95% capacity. Vent restriction devices such as ball float valves shall not be installed at facilities after (the effective date of the rule) unless the storage tank system meets the requirements of Section 7 of PEI/RP 100-11, UST Overfill Equipment Verification, Inspection and Testing; or

3. Alerts the transfer operator when the tank is no more than 90% full by triggering an alarm and does not fill the tank beyond 95% capacity.

(c) Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.

(d) Storage tank systems with capacities of 2000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser are exempt from overfill protection requirements provided that the tanks are never filled beyond 80% capacity.

(e) Overfill devices shall be registered in accordance with subsection 62-761.850(2), F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.500, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.510 Performance Standards for Category-A and Category-B Storage Tank Systems

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303-.3072 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.510, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.600 Release Detection Requirements Standards.

(1) General requirements.

(a) Storage tank systems shall have a method, or combination of methods, of release detection that:

1. Can detect a new release from any portion of the storage tank system;

(b) Any storage tank system without a method, or combination of methods, of release detection in accordance with this section, shall immediately provide a method of release detection, or immediately empty the storage tank system and place the affected system out-of-service, or close the system in accordance with subsection 62-761.800(2), F.A.C.

(c) Any component of a storage tank system with an interstice shall have a method of interstitial monitoring. Interstitial monitoring can be performed with vacuum, pressure, hydrostatic (liquid-level sensing), sensors or probes, and visual release detection methods.

2. Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability to ensure that the device is functioning as designed; and

3. Meets the applicable performance standards in Rule 62-761.640, F.A.C. All manufacturer's instructions, and the performance claims and their manner of determination described in writing by the equipment manufacturer or installer shall be retained for as long as the storage tank system is used.

(b) A release detection response level shall be described in writing for each method or combination of methods of release detection used for a storage tank system.

(c) A release detection method shall be established and provided for all storage tank systems upon installation.

(d) Except as otherwise specified in this Rule Rules 62-761.600-.640, F.A.C., the release detection method or combination of methods used at a facility shall be performed at least once every a calendar month, but not exceeding 35 days, to determine if a release from the storage tank system has occurred.

(e) Visual inspections. At least once a month, but not exceeding 35 days, any component of a storage tank system that contains, transfers, or stores, or is designed to contain, transfer, or store pollutants that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of any component a storage tank, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances that reveals significant pitting, or cracking, splitting, blistering, delamination, signs of corrosion, structural damage, leakage, or other similar problems with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C., is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. Repairs shall be made in accordance with Rule 62-761.700, F.A.C. A monthly visual inspection is not required for any system component using an electronic release detection method, but piping and dispenser sumps must be visually inspected every six months and records kept of the visual inspection. At least once a month, but not exceeding 35 days, any storage tank and component of a storage tank that can be inspected visually shall be visually inspected in accordance with paragraph 62-761.640(2)(e), F.A.C. A visual inspection is not required for any system component that has a

~~continuous or monthly electronic release detection sensor. Continuous electronic leak detection devices shall be inspected for proper operation on a monthly basis. Inspection may consist of visual observation or remote verification of proper operation.~~

(f) Electronic and mechanical release detection devices shall be:

1. Installed, calibrated, operated and maintained in accordance with the manufacturer's instructions and shall be designed and installed to provide service checks for operability to ensure that the device is functioning in accordance with subsection 62-761.700(3), F.A.C.; and

2. Registered in accordance with subsection 62-761.850(2), F.A.C., except that controllers or annunciators that are used to display leak detection test results are not required to be registered. A site suitability determination shall be performed for UST systems by December 31, 1998, in accordance with paragraphs 62-761.640(2)(a)-(d), F.A.C., for storage tank systems using groundwater or vapor monitoring wells for release detection. If the site suitability determination indicates that on-site conditions are unsuitable for external monitoring, another method of release detection must be used.

(g) Electronic release detection devices shall be inspected for proper operation at least once every calendar month, but not exceeding 35 days. A record or summary of the alarm history, sensor status and testing results related to potential releases shall be printed from any electronic release detection device or be provided to the department through electronic documentation. If the release detection system is not capable of printing records, a manual log shall be maintained of the alarm history, sensor status and testing results. Vapor monitoring plans shall be performed by December 31, 1998, for UST systems, in accordance with paragraph 62-761.640(2)(d), F.A.C., for storage tank systems using vapor monitoring for release detection.

(h) Release detection shall be constructed and installed so that groundwater, rainfall, or soil moisture will not render the release detection method used inoperable. Any component of a storage tank system with secondary containment shall have an interstitial monitoring method meeting the requirements of paragraph 62-761.640(3)(a), F.A.C.

(i) Storage tank systems that store fuel solely for use by emergency power generators are not required to comply with the release detection requirements of Rule 62-761.600, F.A.C. Pressurized piping, excluding bulk product piping, shall be equipped with a line leak detector that meets the standards of paragraph 62-761.640(4)(a), F.A.C. Gravity piping systems are exempt from this requirement.

(2) Storage Tanks.

(a) One or more of the following release detection methods shall be used:

1. Liquid level monitoring systems with electronic hydrostatic sensors. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid levels can not be maintained. Any alarm that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Vacuum monitoring. This method shall be able to detect incidents by determining changes in vacuum levels within the interstice by continuous monitoring of vacuum levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if vacuum levels can not be maintained. Any alarm that indicates that vacuum levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

3. Pressure monitoring. This method shall be able to detect incidents by using an inert gas and determining changes in pressure levels within the interstice by continuous monitoring of pressure levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if pressure levels can not be maintained. Any alarm that indicates that pressure levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

4. Electronic sensors in a normally dry interstice. This method shall be able to detect the presence of liquid in the interstice or monitoring low point and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid is detected. Any alarm that indicates the presence of liquid, other than condensate is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

Clarification

5. Visually inspected liquid level monitoring systems. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir. Any visual observation that

indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

6. Visually inspected vacuum or pressure monitoring with gauges. This method shall be able to detect incidents by determining changes in vacuum or pressure levels within the interstice.

a. Vacuum or pressure readings shall be able to detect a 50% change from one month to the next, or any cumulative change of vacuum or pressure exceeding 50% of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge. Vacuum or pressure refreshment must be performed in accordance with manufacturer's specifications and the system's equipment registration in subsection 62-761.850(2), F.A.C. Any change indicated above is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

b. Liquid-filled gauges shall be calibrated using NIST traceable standards prior to initial operation, hereby adopted and incorporated by reference, and available at the address given. The gauges shall be operational at all times.

7. Visual monitoring of normally dry interstices. This method shall be able to detect the presence of liquid at a low point of the interstice. Any presence of groundwater or surface water, and/or regulated substances in the interstice is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

8. Visual monitoring of sumps. This method shall be able to detect the presence of liquid at a low point of the sump. The accumulation of water or condensation in the low point of the sump shall not interfere with the ability to detect regulated substances. **Any evidence of petroleum-stained containment surfaces, free product, or leaking of regulated substances from any part of a storage tank system secondary containment** presence of regulated substances in the sump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

More practical and achievable

(3) Integral piping with secondary containment.

(a) One or more of the release detection methods in subsection 62-761.600(2), F.A.C., shall be used.

(b) In addition, pressurized small diameter integral piping in contact with the soil shall be equipped with a release detection system that can detect a leak within one hour. One of the following methods shall be used:

1. Mechanical line leak detectors. Mechanical line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and restrict flow within one hour. Any instance where the mechanical line leak detector is restricting flow is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Electronic line leak detectors. Electronic line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and shut off power to the pump. Any instance where the electronic line leak detector has shut off power to the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

3. Electronic interstitial monitoring devices. Storage tank systems without line leak detectors, shall have electronic interstitial monitoring devices that are capable of detecting a release of ten gallons within one hour and shutting off the pump. Any instance where the monitoring device has shut off the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(4) Annual operability testing of release detection systems. All release detection devices shall be tested annually at intervals not exceeding 12 months to ensure proper operation. The test must either simulate an actual alarm condition or shall be conducted according to manufacturer's specifications, and shall include, at a minimum, a determination of whether the device operates as designed. Remote testing of the system can be performed by the manufacturer if the remote test is included in the third party certification by a Nationally Recognized Testing Laboratory.

(5) Records shall be kept for three years in accordance with Rule 62-761.710, F.A.C.

(j) Any storage tank system not provided with a method, or combination of methods, of release detection in accordance with this section, shall be closed in accordance with subsection 62-761.800(2), F.A.C., by the date upon which release detection is to be provided.

(k) Groundwater and vapor monitoring wells meeting the standards for external monitoring specified in paragraphs 62-761.640(2)(a)-(d), F.A.C., that are no longer used for release detection, shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 2010. Wells not meeting these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are:

1. Used for contamination assessment purposes as specified in paragraph 62-761.600(2)(d), F.A.C.; or
2. Required by rules adopted by a County government in accordance with Section 376.317, F.S.

(2) By December 10, 1990, vehicular fuel petroleum storage tank systems of greater than 550 gallon capacity shall be provided with release detection. Release detection for all other storage tank and integral piping systems in contact with the soil shall be provided by December 31 of the year shown in Table RD.

TABLE RD

Year Storage Tank System Installed	Year Release	Detection Required			
Before 1970 or unknown	1990	1991	1992	1993	
Before 1970 or unknown	P/RD				
1970-1974	P	RD			
1975-1979	P		RD		
1980-1990	P			RD	

P = Installation of Release Detection for Pressurized Piping

RD = Installation of Release Detection for Tanks and Suction Piping.

(3) Effective December 31 of the applicable year specified under the schedule in Table RD, any groundwater monitoring plan or spill prevention control and countermeasure plan implemented before December 22, 1990, shall be capable of detecting the leak rate or quantity specified in paragraph 62-761.640(1)(a), F.A.C.

(4) UST systems that store fuel solely for use by emergency power generators are not required to comply with the release detection standards of Rules 62-761.600 through 62-761.640, F.A.C.

(5) Monitoring wells shall meet the standards of subsection 62-761.640(2), F.A.C., by December 31, 1998. Wells that do not meet these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are required by a rule that was adopted by a County government in accordance with Section 376.317, F.S. However, if a monitoring well is used solely for the purpose of monitoring petroleum contamination in accordance with Chapter 62-770, F.A.C., the well does not have to be closed until the completion of the site rehabilitation pursuant to Chapter 62-770, F.A.C. Covers of leak detection monitoring wells redesignated as site assessment wells by the facility owner or operator shall be colored black with a white circle within the black background. The diameter of the white circle shall be approximately one half the diameter of the manhole cover, or approximately four inches.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.3072 FS. History—New 12-10-90, Formerly 17-761.600, 62-761.610, 62-761.640 Amended 7-13-98, 6-21-04, _____.

62-761.610 Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.610, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.640 Performance Standards for Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.640, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

Substantial rewording of Rule 62-761.700, F.A.C., follows. See Florida Administrative Code for present text.

62-761.700 Repairs, Operation and Maintenance of Storage Tank Systems.

(1) Repairs.

(a) Repairs shall be performed, as necessary, if any component of a storage tank system has:

1. A release or discharge or contributed to a release or discharge of a regulated substance; or
2. An operational or structural problem that could potentially result in a release or discharge, or lead to the presence of groundwater or surface water in the interstice of a double-walled storage tank or integral piping.

(b) The storage tank system shall immediately cease operating, dispensing, and/or accepting deliveries, if:

1. Repairs are required for any component of a storage tank system; and

2. The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shut down of electrical generating units serviced by the storage tank system.

(c) Repairs shall be made:

1. To restore the structural integrity of the storage tank system and in a manner that will prevent releases or discharges from structural failure or corrosion for the remaining operational life of the storage tank system; and

2. In accordance with manufacturer's specifications and applicable reference requirements.

(d) If repairs are needed for any primary or secondary tank or piping system walls, or any interstitial spaces of storage tank system components, the repaired components shall be integrity tested for liquid tightness before being placed back into operation.

(2) Cathodic protection.

(a) Cathodic protection systems shall be operated and maintained to provide continuous corrosion protection to the metal components of those portions of the storage tank and integral piping in contact with the soil **or within metallic interstitial spaces using vapor corrosion inhibitor technologies.**

(Recommend adding this for a potential use of vci's. Otherwise, it would limit the use to components in contact with the soil.)

(b) Inspection and testing requirements.

1. Storage tank systems equipped with cathodic protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year, or every three years for factory-installed (galvanic) cathodic protection systems, thereafter in accordance with the criteria contained in NACE International Standards SP0169-2007 and SP0285-2011, or STI R051-06 Cathodic Protection Testing Procedures for sti-P3® UST's (R051), as applicable, hereby adopted and incorporated by reference, and available at the address given. All cathodic protection systems shall either have permanent test stations for soil-to-structure potential measurements or use temporary field test stations for required testing in accordance with this subparagraph.

2. Storage tank systems with impressed current systems shall be inspected at intervals not exceeding two months. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 1440 hours in one year shall be immediately taken out-of-service and within 30 days, and assessed by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria.

(c) Records of the continuous operation of impressed current systems and all cathodic protection inspection, testing, and repair activities shall be maintained in accordance with paragraph 62-761.710(3)(c), F.A.C.

(d) Storage tank systems with cathodic protection systems that have been determined by a Corrosion Professional that the cathodic protection system cannot achieve or maintain protection levels in accordance with the design criteria shall:

1. Be repaired within 90 days in accordance with subparagraph 62-761.700(2)(b)1., F.A.C., or

2. Be closed in accordance with subsection 62-761.800(2), F.A.C.

(3) Operation and maintenance.

(a) Integrity testing.

1. The integrity of secondary containment systems and interstitial spaces shall be verified by performing an interstitial or containment integrity test in accordance with manufacturer's specifications or PEI/RP1200-12. Secondary containment systems that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection are exempt from this requirement. The interstitial or containment integrity tests shall be performed in accordance with the following schedule:

a. Double-walled storage tanks shall be tested at the time of installation or repair;

b. The interstice of double-walled integral piping within five years of *(the effective date of the rule)*, and every five years thereafter;

c. Below-grade piping sumps within five years of *(the effective date of the rule)*, and every five years thereafter;

d. Below-grade dispenser sumps within five years of *(the effective date of the rule)*, and every five years thereafter;

e. Double-walled spill containment systems within **five years** of *(the effective date of the rule)* and at intervals not exceeding every 12 months thereafter;

f. Single-walled spill containment systems within one year of *(the effective date of the rule)* and at intervals not exceeding every 12 months thereafter; and

g. Single-walled storage tanks or integral piping installed within sumps are exempt from this requirement.

2. If using hydrostatic testing for the interstitial or containment integrity test, it shall be performed by filling the secondary containment system with water to a marked level four inches above the highest penetration of the side wall of the containment equipment, with the exception of spill containment systems which shall be filled to a level within 1.5 inches of the top of the bucket. The secondary containment system shall be deemed tight if the water level remains stationary for a three hour period.

3. Any integrity test that indicates that the component is not tight shall be reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(b) Water removal.

1. Spill containment systems, interstitial spaces, dispenser sumps, and piping sumps shall be maintained to provide access for examination and water removal. Water in excess of one inch in depth, or any regulated substance collected in secondary containment, spill containment systems, or in piping sumps and dispenser sumps shall be removed within 72 hours of discovery and be either reused or properly disposed.

2. Petroleum Contact Water. Petroleum contact water from storage tank systems shall be managed in accordance with Chapter 62-740, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 403.091?, 489.133 FS. History--New 3-12-91, Formerly 17-761.700, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.710 Recordkeeping.

(1) All records shall be dated, maintained in permanent form, and available for inspection by the Department or County. If records are not kept at the facility, they shall be made available at the facility or another agreed upon location upon five working days of receipt of the Department's request ~~notice~~. Site access to the facility shall be provided for compliance inspections conducted at reasonable times.

(2) Records of the following are required to be kept for ~~three~~ **two** years:

(a) ~~Measurements and reconciliations of inventory, as applicable;~~

(b) ~~Repair, operation, and maintenance records;~~

(c) ~~All r~~(e) All rRelease detection results, including electronic test results, regardless of the frequency, and monthly visual inspections performed in accordance with paragraph 62-761.600(1)(e) ~~62-761.640(2)(e)~~, F.A.C. The presence of a regulated substance's odor, sheen, or free product shall be recorded for each sampling event;

(c) ~~(d)~~ All test data and results gathered during annual operability tests and integrity tests ~~Release detection response level descriptions;~~

(d) ~~(e)~~ A copy of all test data and results gathered during tightness tests, pressure tests, and breach of integrity tests, and the name and type of the test approved under Rule 62-761.850, F.A.C.;

(f) ~~Certification of Financial Responsibility on Form 62-761.900(3);~~

(g) Records of the types of fuels stored per tank; and

(h) ~~The repair or replacement of gaskets, valve packings, valves, flanges, and connection/disconnection fittings for bulk product piping if the repair or replacement is performed in response to a discharge or loss of regulated substances.~~

(3) Records of the following, generated after July 13, 1998, shall be maintained until ~~for the life of the storage tank system closure~~:

(a) Manufacturer's instructions for operation, maintenance, and testing for release detection equipment ~~Results of internal inspections and non-destructive testing;~~

(b) Any performance claims for release detection equipment described in writing by the equipment manufacturer or installer;

(c) ~~(e)~~ Records of storage tank system installations, replacements, recertifications, and upgrades;

(c) ~~(d)~~ Records of installation, maintenance, inspections, and testing of **corrosion and** cathodic protection systems in accordance with NACE **and STI** standards;

Allows for VCI technologies

(e) ~~(f)~~ Record drawings ("as-builts") as specified in paragraph 62-761.500(1)(i), F.A.C. Site suitability determinations in accordance with subsection 62-761.640(2), F.A.C.;

(f) ~~(g)~~ A copy of all INFs, and the results of all incident investigations as specified in Rule 62-761.430,

F.A.C. Vapor monitoring plans and all records kept pursuant to the plan;

(g)(h) A copy of all DRFs Closure assessment reports if the location continues as a facility; and

(h) A copy of all Closure Report Forms, if the location continues as a facility Verification from a Certified Contractor of the existence of a single check valve beneath the suction pump for suction piping systems.

(i) Records to demonstrate financial responsibility shall be maintained until storage tank system closure if no contamination has been reported or if no Site Rehabilitation Completion Order (SRCO) has been issued pursuant to 62-780, F.A.C.

(4) The Department strongly encourages that all records relating to financial responsibility be maintained permanently.

Rulemaking Specific Authority 376.303, 376.322(3), 403.091 FS. Law Implemented 376.303, 376.322 FS. History—New 12-10-90, Formerly 17-761.710, Amended 9-30-96, 7-13-98, Repromulgated 6-21-04, _____.

62-761.800 Out-of-Service and Closure Requirements.

(1) Out-of-service storage tank systems.

(a) General.

1. Storage tank systems that are taken out-of-service, as required in this subsection as defined in subsection 62-761.200(40), F.A.C., shall continue to be maintained in accordance with this Chapter unless otherwise noted herein.:

2. Facility owners and operators of out-of-service storage tank systems shall:

a. Continue to operate and maintain corrosion protection in accordance with subsection paragraph 62-761.700(2)(4)(b), F.A.C.;

b. Perform external release detection for sites without contamination, as applicable, every six months in accordance with provisions of subsection 62-761.640(2), F.A.C.;

c. Leave vent lines open and functioning;

cd. Remove all regulated substances so that no more than one inch in depth or 0.3 percent by weight of regulated substances remains in the storage tank Empty the system and cap or secure all lines, pumps, manways, and ancillary equipment, as applicable; and

de. Secure or close off the system to outside access.

3. Facility owners and operators of out-of-service storage tank systems shall monitor the interstice and the liquid level in the storage tank annually but not to exceed 12 months. Records of these inspections shall be maintained in accordance with subsection 62-761.710(2), F.A.C. In the event that liquid in excess of one inch, or 0.3% by weight, in the storage tank or any liquid, other than condensate, in the interstice is discovered, facility owners and operators must follow the procedures for incidents pursuant to Rule 62-761.430, F.A.C. If the storage tank system is required to be upgraded during the time that it is out of service, it shall be upgraded or replaced in accordance with this chapter before it is returned to service.

4. Release detection device annual operability testing, containment and interstitial integrity testing, and annual overfill protection device testing are not required while the system is properly out-of-service. All afore-mentioned testing shall be up-to-date in accordance with this Chapter and indicate proper operation before adding regulated substances to the storage tank system. In addition, storage tank systems installed after (the effective date of the rule) that have been out-of-service for more than 730 days shall perform interstitial integrity testing of the storage tank and integral piping before adding regulated substances to the storage tank system. Systems with secondary containment installed and operated in accordance with this chapter may remain in a continuous out of service status for ten years. After this period, the system shall be returned to service or closed in accordance with subsection 62-761.800(2), F.A.C.

5. Storage tank systems with secondary containment shall only be designated as out-of-service for a maximum of ten continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with subsection 62-761.800(2), F.A.C. Tightness, pressure, or other tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., as applicable, on any systems being returned to service.

(b) Before being returned to service, the following tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., for systems that are taken out of service for more than 180 days:

1. A tightness test for single-walled systems; or

2. A breach of integrity test for double-walled Category C systems.

(c) Single-walled systems that are taken out of service shall not be kept out of service longer than two years for corrosion protected systems or one year for unprotected bare steel systems. After the end of these time periods, the systems shall either be upgraded or permanently closed.

(2) Closure of storage tank systems.

(a) The following storage tank systems must be closed within 90 days in accordance with the provisions of this subsection:~~General.~~

1. A storage tank system that fails to meet or is not modified to meet the Storage Tank System requirements of Rule 62-761.500, F.A.C.~~Closure of storage tank systems shall be performed by:~~

a. ~~Removing all liquids and accumulated sludges;~~

b. ~~Disconnecting and capping, or removing, all integral piping. Manways shall be secured to prevent access;~~

c. ~~Closing the storage tank system in accordance with paragraphs 62-761.800(2)(b), F.A.C., as applicable; and~~

d. ~~Conducting a closure assessment in accordance with subsection 62-761.800(3), F.A.C.~~

2. A storage tank system that requires repair pursuant to Rule 62-761.700, F.A.C., but cannot be repaired to operate in accordance with the requirements of this Chapter shall be taken out-of-service. If it cannot be repaired within 365 days after being taken out-of-service, it shall be permanently closed.~~After closure, storage tank systems may be used to store materials or substances other than regulated substances in accordance with all applicable Department reference standards, (for example, API 1604). Owners and operators are advised that other federal, state, or local requirements may apply to these activities.~~

3. ~~Monitoring wells associated with closed systems that are not being used for release detection or site assessment purposes shall be closed in accordance with paragraph 62-761.600(1)(c), F.A.C.~~

(b) Closure of storage tank systems shall be performed by: ~~Unmaintained systems shall be permanently closed within 90 days of discovery.~~

1. Conducting a Closure Integrity Evaluation as defined in subsection 62-761.200(8), F.A.C., and completing the UST Closure and Investigation Report Form 62-761.900(7), hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>, in accordance with subsection 62-761.800(3), F.A.C.

2. Removing by a Certified Contractor or disconnecting and capping all integral piping;

3. Removing and disposing of a storage tank by a Certified Contractor, or in-place closure by filling the storage tank with a solid inert material of sufficient density to prevent a structural collapse of the closed storage tank, which shall be in accordance with the following documents hereby adopted and incorporated by reference, and available from the addresses given. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, and Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NEPA 30 (Annex C). In lieu of in-place closure or removal, a storage tank may be used to store liquids other than regulated substances in accordance with API RP 1604. Owners and operators are advised that other federal, state, or local requirements apply that regulate these activities; and

4. Properly closing monitoring wells associated with closed systems that are not being used for site assessment purposes;

(c) The removal and disposal of all liquids and accumulated sludges may be required according to other local, state, and federal requirements.~~System removal, closure in place, and disposal shall be performed:~~

1. ~~In accordance with API RP 1604 and NEPA 30; and~~

~~By a Certified Contractor if the system is removed from the ground, unless it is closed in place by filling it with a solid inert material of sufficient density to prevent a structural collapse of the closed system.~~

(3) Closure Integrity Evaluation and Closure Report Form Requirements ~~Closure assessment of storage tank systems.~~

(a) Closure Integrity Evaluation. ~~At time of closure, replacement, installation of secondary containment, or change in service from a regulated substance to a non-regulated substance, an assessment shall be performed to determine if a discharge from the system or system components has occurred.~~

1. A Closure Integrity Evaluation as defined in subsection 62-761.200(8), F.A.C., must be performed no more than 45 days prior to closure, replacement, or change in service from a regulated substance to a non-regulated substance for all double-walled storage tanks, double-walled integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil. If a Site Rehabilitation Completion Order (SRCO) or a Monitoring Only Plan (MOP) Approval Order has been issued by the Department for a contaminated area of a site, a closure assessment shall be performed for any subsequent storage tank system removal, replacement, or installation of secondary containment.

2. A Closure Integrity Evaluation requires a visual assessment of the interstitial space of double-walled tanks, integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil to

determine if there are any products or pollutants or any water other than condensate present within the interstice. Other methods approved by the manufacturer or the Department such as vacuum, pressure, or inert gases may be used instead of visual observations. ~~Tanks, pipes, or other system components in contact with soil at any site are subject to closure assessment requirements.~~

3. A Closure Integrity Evaluation for single-walled piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil requires a hydrostatic test or another test approved by the manufacturer.

4. A failed Closure Integrity Evaluation requires the reporting of the failed evaluation as an incident in accordance with subsection 62-761.405(3), F.A.C., and the investigation of the incident in accordance with subsection 62-761.430, F.A.C. If soil and/or groundwater sampling is necessary to determine whether a discharge has occurred, then an investigation shall be conducted in accordance with Form 62-761.900(7), UST Closure and Investigation Report Form.

5. The County must be provided with a copy of the Closure Integrity Evaluation report as part of the notification process pursuant to subsection 62-761.405(2), F.A.C. At a minimum, the Closure Integrity Evaluation report shall include the name of the third party inspection or testing company conducting the evaluation, a description of the storage tank system or system components that are being closed, the date of the evaluation(s) conducted, a description of the evaluation conducted along with the results, and a conclusion based on the results as to whether an incident has occurred.

6. In lieu of conducting a Closure Integrity Evaluation, the owner or operator may conduct a site assessment in accordance with 62-780.600, F.A.C. The owner or operator who fails to conduct a Closure Integrity Evaluation before the storage tank system or system component has been removed or closed in-place, shall conduct a site assessment in accordance with 62-780.600, F.A.C.

(b) Underground Storage Tank Closure and Investigation Report Form. A Closure Report Form is always required for storage tanks, integral piping, piping sumps, dispenser sumps, and spill containment systems, shall be completed at the time of closure, replacement, or change in service from a regulated substance to a non-regulated substance, and shall be submitted in writing or electronic format to the County within 60 days of completion of the closure, replacement, or change in service from a regulated substance to a non-regulated substance. A closure assessment is not required for:

1. Sites with documented contamination requiring a site assessment in accordance with Chapter 62-770, F.A.C., including those that are eligible for the Early Detection Incentive Program (EDI), the Florida Petroleum Liability and Restoration Insurance Program (FPLRIP), and the Petroleum Cleanup Participation Program (PCPP), pursuant to Sections 376.3071 and 376.3072, F.S. Nevertheless, documentation of procedures followed and results obtained during closure shall be reported in a Limited Closure Summary Report, Form 62-761.900(8), and in accordance with Section A of DEP's "Storage Tank System Closure Assessment Requirements";

2. Systems initially installed with secondary containment, provided that no unexplained positive response of an interstitial release detection device or method occurred during the operational life of the system, or the secondary containment passed a breach of integrity test prior to closure; and

3. Systems upgraded with secondary containment that have closed interstitial spaces, where a closure assessment was performed prior to installation of secondary containment, provided that the secondary containment passed a breach of integrity test in accordance with paragraph 62-761.640(3)(a), F.A.C.;

(c) Closure assessment sampling and analysis shall be conducted according to DEP's "Storage Tank System Closure Assessment Requirements."

(d) A closure assessment report shall be submitted to the County within 60 days of completion of any of the activities listed in paragraph 62-761.800(3)(a), F.A.C. The report shall include sample types, sample locations and measurement methods, a site map, methods of maintaining quality assurance and quality control, and any analytical results obtained during the assessment in accordance with DEP's "Storage Tank System Closure Assessment Requirements."

(e) Persons are advised that contaminated soil excavated, disposed of, or stockpiled on site during the closure of a storage tank system is regulated by Chapter 62-770, F.A.C.

(4) Facilities closing single-walled storage tanks and/or piping, or tanks and/or piping that are in contact with the soil shall conduct a site assessment in accordance with Rule 62-780.600, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.30716 FS. History—New 12-10-90, Formerly 17-761.800, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.820 Incident and Discharge Response.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.820, Amended 9-30-96, 7-13-98, 6-21-04, Repealed.

62-761.850 Alternative Procedures Requirements and Equipment Registration Approvals.

(1) Alternative procedure requirements.

(a) Any person subject to the provisions of this Chapter may request in writing a determination by the Secretary or the Secretary's designee that any requirement of this Chapter shall not apply to a regulated storage tank system at a facility, and shall request approval of alternative ~~alternate~~ procedures or requirements.

(b) On Form 62-761.900(4), Alternative Requirement or Procedure Form, effective date, *(the effective date of the rule)*, hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>, the request shall set forth at a minimum the following information:

1. The specific storage tank system or facility for which an exception is sought;
2. The specific provisions of this Chapter 62-761, F.A.C., from which an exception is sought;
3. The basis for the exception;
4. The alternative procedure or requirement for which approval is sought;
5. Documentation that demonstrates that the alternative procedure or requirement provides an equivalent or greater degree of protection for the lands, surface waters or groundwaters of the State as the specific provisions of this Chapter from which an alternative procedure is sought ~~established requirement~~; and
6. Documentation that demonstrates that the alternative procedure or requirement is at least as effective as the established procedure or requirement.
7. If an alternative ~~alternate~~ procedure or requirement is not able to be sought under subparagraph 5. or 6., then documentation that demonstrates that the specific provisions of this Chapter from which the exception is sought imposes regulatory costs on the regulated entity that could be reduced through approval of a less costly regulatory alternative or requirement that provides a substantially equivalent degree of protection for the lands, surface waters, or groundwaters of the State as the established requirement.

(c) The Department shall issue an Order within 90 days of the receipt of a completed Alternative Requirement or Procedure Form, either: Within 60 days of the receipt of a request for approval of an alternative procedure or requirement, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(1), F.A.C., are met.

1. Approving the request with any conditions necessary to meet the requirements of paragraph 62-761.850(1)(b), F.A.C.; or
2. Denying the request and stating the reason(s) the request does not make an adequate demonstration that the requirements of paragraph 62-761.850(1)(b), F.A.C., have been met.

(d) The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S. The Department's failure to timely issue an Order does not grant or approve the request. The Secretary or the Secretary's designee shall specify by order each alternative procedure or requirement approved for an individual storage tank system or facility in accordance with this rule or shall issue an order denying the request for such approval.

(e) The provisions of this Rule do not preclude the use of any other applicable relief provisions.

(2) Registration of storage tank system equipment and release detection systems and methods ~~Equipment~~ approvals.

(a) Owners and operators shall verify at the time of installation that the storage tank system equipment and release detection systems and methods (including equipment and methods that were previously approved by the Department under the former Equipment Approval process) have been registered with the Department. ~~Storage tank system equipment used in the State of Florida must have the approval of the Department before installation or use, with the exception of:~~

(b) Any storage tank system equipment installed after *(the effective date of the rule)* must be registered with the Department in accordance with this section. Upon discovery, non-registered storage system equipment installed after *(the effective date of the rule)* must be removed within 90 days, unless registration is obtained and listed within the 90 day time period.

(c) Equipment previously approved by the Department under the former Equipment Approval process and installed prior to (the effective date of the rule) can continue to be used regardless of later non-renewal or removal of registration from the list of registered storage tank system equipment, provided the equipment is still operating as designed.

(d) Only the storage tank system equipment as stated in this Chapter shall be registered by the equipment manufacturer using Form 62-761.900(3) Storage Tank System Equipment Registration Form, effective date, (the effective date of the rule), hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>. The following storage tank system equipment is exempt from registration:

1. Dispensers, dispenser islands, nozzles, and hoses;
2. ~~Monitoring well bailers;~~
3. Manhole and fillbox covers;
4. ~~Valves and ball float valves;~~
5. Cathodic protection test stations;
6. ~~Metallic bulk product piping;~~
7. Small diameter integral piping not in contact with soil, unless the integral piping extends over or into surface waters; ~~and~~
8. ~~Vent lines; and~~
9. Gauges used for vacuum monitoring.

~~(e)(b)~~ Registration ~~Equipment approval~~ requests shall be submitted to the Department in writing or electronic format with a demonstration that the equipment will ~~provide equivalent protection or~~ meet the appropriate performance requirements ~~standards~~ contained in this Chapter. Any approvals or denials received from other states or countries shall be included in the registration approval request to the Department.

~~(f)(e)~~ A third-party demonstration by a Nationally Recognized Testing Laboratory shall be submitted in writing or electronic format to the Department with the application. The third-party demonstration shall provide:

1. A technical evaluation of the equipment;
2. Test results that verify that the equipment will function as designed; ~~and~~
3. A professional certification or determination that the equipment meets the performance requirements ~~standards~~ contained in this Chapter; Rule 62-761.500, F.A.C.
4. Integrity test requirements and procedures;
5. Annual operability testing procedure for the equipment or release detection system or method; and
6. Copies of the manufacturer's instructions to maintain the manufacturer's warranty.

~~(g)(d)~~ Release detection methods and tank and piping tightness and pressure testing methods must be registered in accordance with this subsection prior to being used. ~~Within 60 days of the receipt of a request for an equipment approval, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(2), F.A.C., are met.~~

~~(h)(e)~~ The storage tank system equipment and release detection systems and methods registered with the Department under this subsection must be renewed every five years. Failure to renew will result in removal from the equipment registration list. Any changes, improvements, or modifications to equipment beyond the scope of the original demonstration by the Nationally Recognized Testing Laboratory will require a renewal of the registration and a new demonstration from a Nationally Recognized Testing Laboratory pursuant to paragraph 62-761.850(2)(f), F.A.C. The Secretary or the Secretary's designee shall specify by order each equipment approval that is approved in accordance with this rule or shall issue an order denying the request for such approval. The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S.

(i) The Department shall place conditions upon the use of the storage tank system equipment and release detection systems and methods, remove equipment or methods from the list of registered storage tank system equipment, or not renew registration based on information submitted to the Department or if the equipment does not perform in field application as certified in the third party certification by a Nationally Recognized Testing Laboratory.

(3) Registration of Operator Training Providers

(a) Owners and Operators must verify that providers of training required under 62-761.350 F.A.C. (including training which was previously approved by the Department under the former approval process) have been registered with the Department.

(b) Training previously approved by the Department prior to can continue to be used until one year after the (the

effective date of the rule).

(c) Registration of vendor's requests shall be submitted to the Department in writing or electronic format with a demonstration that meets the appropriate training contained in this Chapter. Any approvals or denials received from other states or countries shall be included in the registration request to the Department.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.850, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.900 Storage Tank Forms.

The forms used by the Department in the Storage Tank System Program are adopted and incorporated by reference in this section. The forms are listed by form rule number, ~~which is also the form number, and with the~~ subject title, and effective date. Copies of forms are available ~~may be obtained~~ by writing to the Administrator, Storage Tank Regulation Section, Florida Department of Environmental Protection, Division of Waste Management, 2600 Blair Stone Road, M.S. ~~4500~~ 4525, Tallahassee, Florida 32399-2400, or: www.flrules.org/Gateway/reference.asp?No=Ref-000###, or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(1) Form 62-761.900(1) Discharge Report Form, *(the effective date of the rule)* July 13, 1998.

(2) Form 62-761.900(2) Storage Tank Facility Registration Form, *(the effective date of the rule)* July 13, 1998.

(3) Form 62-761.900(3) Storage Tank System Equipment Registration Form, *(the effective date of the rule)* Certification of Financial Responsibility, July 13, 1998.

(4) Form 62-761.900(4) Alternative Requirement or Procedure Form, *(the effective date of the rule)* July 13, 1998.

(5) Form 62-761.900(5) Underground Storage Tank Installation and Removal Form for Certified Contractors, *(the effective date of the rule)* July 13, 1998.

(6) Form 62-761.900(6) Incident Notification Form, *(the effective date of the rule)* July 13, 1998.

(7) Form 62-761.900(7) Underground Storage Tank Closure and Investigation Report Form, *(the effective date of the rule)*. Monthly Statistical Inventory Reconciliation (SIR) Report, July 13, 1998.

(8) ~~Limited Closure Summary Report Form, July 13, 1998.~~

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.900, Amended 9-30-96, 7-13-98, ~~Repromulgated~~ 6-21-04, _____.

CHAPTER 62-761 UNDERGROUND STORAGE TANK SYSTEMS

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62-761.400	<u>Registration and Financial Responsibility</u>
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62-761.440	<u>Discharges</u>
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62-761.500	<u>Storage Tank System Requirements Performance Standards for Category C Storage Tank Systems</u>
62-761.510	<u>Performance Standards for Category A and Category B Storage Tank Systems</u> (Repealed)
62-761.600	Release Detection <u>Requirements Standards</u>
62-761.610	<u>Release Detection Methods</u> (Repealed)
62-761.640	<u>Performance Standards for Release Detection Methods</u> (Repealed)
62-761.700	Repairs, Operation and Maintenance of <u>Storage Tank Systems</u>
62-761.710	Recordkeeping
62-761.800	Out-of-Service and Closure Requirements
62-761.820	<u>Incident and Discharge Response</u> (Repealed)
62-761.850	Alternative Procedures <u>Requirements and Equipment Registration Approvals</u>
62-761.900	Storage Tank Forms

62-761.100 Intent.

(1) The purpose of this Chapter is to provide requirements standards for the registration, construction, installation, operation, maintenance, repair, closure, and disposal of underground storage tank systems that store regulated substances, in order and to minimize the occurrence and environmental risks of releases and discharges. This Chapter provides requirements standards for underground storage tank systems having individual storage tank capacities greater than 110 gallons.

(2) No change.

(3) Site access to the facility and individual storage tank system or system components shall be provided for compliance inspections conducted at reasonable times. Facility owner or operator shall provide the Class A or B Operator designated pursuant to Rule 62-761.350, F.A.C., to unlock and open any covers, manways, and release detection equipment associated with the storage tank system or system component and demonstrate operational functionality of electronic equipment.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 403.091 FS. History—New 12-10-90, Formerly 17-761.100, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.200 Definitions.

All words and phrases defined in Sections 376.301 and 376.79, F.S., shall have the same meaning when used in this chapter unless specifically stated otherwise in this chapter. See Sections 376.301 and 376.79, F.S., for definitions of the following terms: “Contaminant (contamination shall mean the same as contaminant),” “Contaminated site,” “Department,” “Discharge,” “Facility,” “Flow-Through Process Tank,” “Hazardous substances,” “Operator,” “Owner,” and “Pollutants.” The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:~~The following words, phrases or terms used in this chapter, unless the context indicates otherwise, shall have the following meaning:~~

(1) No change

(2) “Biofuel” means fuel produced from renewable resources especially, but not limited to, organic feedstocks such as plant biomass, vegetable oils, animal fats and treated municipal and industrial wastes. “AST” means an aboveground storage tank.

(3) “Bulk product piping” means on-site integral piping with an internal diameter greater than three inches that is utilized for transporting regulated substances.

~~(3)(4)~~ “Cathodic protection” means a method of preventing corrosion of a metal surface by making that

surface the cathode of an electrochemical cell through the use of devices such as galvanic anodes or impressed current.

(4)(5) “Cathodic Protection Tester” means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems and be certified as a NACE or STI cathodic protection tester.

(5)(6) “Certified Contractor” means a Pollutant Storage System Contractor certified by the Department of Business and Professional Regulation in accordance with Chapter 489, F.S. Except for the exemptions specified in Chapter 489, F.S., Certified Contractors are not required for activities that do not involve excavating or disturbing the backfill around underground storage tank systems. Certified Contractors are the only contractors authorized to perform the following activities for underground pollutant storage tank systems **if backfill is disturbed:**

(a) Installation of:

1. Underground storage tanks or integral piping, excluding drop tubes;
2. Overfill protection and spill containment;
3. Secondary containment;
4. Internal release detection devices;
5. Cathodic protection systems; and
6. Dispenser sumps ~~liners~~ when the integral piping is connected or disconnected during the installation of secondary containment.

(b) Removal of tanks or integral piping; and

(c) Internal lining of tanks.

(6) “Certified Contractors Form” means Underground Storage Tank Installation and Removal Form for Certified Contractors 62-761.900(5).

(7) “Chlorine” includes organic and inorganic compounds that are liquids at standard temperature and pressure that, when discharged, may release free chlorine (Cl₂) or chlorides (Cl⁻).

(8) “Closure Integrity Evaluation” is an assessment of storage tank system integrity that is performed by a third-party inspection or testing company at closure, replacement, or change in service from a regulated substance to a non-regulated substance. It is the evaluation of the tightness of the interstitial space of a double-walled storage tank, integral piping, piping sump, dispenser sump, and spill containment system; or the tightness of the containment of a single-walled piping sump, dispenser sump, or spill containment system.

(9) “Closure Report Form” means Underground Storage Tank Closure and Investigation Report Form 62-761.900(7). *Renumber*

(10)(8) “Compatible” means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the storage tank system under conditions likely to be encountered in the storage tank system.

(9) “Contamination” or “contaminated” means the presence of regulated substances in surface water, groundwater, soil, sediment, or upon the land, in quantities result in exceedances of applicable cleanup target levels specified in Chapter 62-770, F.A.C., where petroleum or petroleum products are present, or water quality standards in Chapter 62-3, 62-302, or 62-550, F.A.C.

(11)(10) “Corrosion Professional” means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal components of a storage tank system. Corrosion Professionals shall be accredited or certified by NACE International as a either a Cathodic Protection Specialist or Corrosion Specialist, or be a professional engineer licensed registered in the State of Florida.

(12) “Corrosion Protection” means the minimization of corrosion by the use of cathodic protection or by the use of vapor corrosion inhibitors.

This definition is still needed for STI P3 tanks and for Vapor Corrosion Inhibitor technologies that are being developed for UST activities. Keeping it in the rule does no harm, and will help provide a foundation for the aforementioned needs. This is an important factor for Zerust and STI, and may result in the need to challenge the rule if omitted.

(12)(11) “County” means a locally administered governmental program under contract with the Department to perform compliance verification activities at facilities with storage tank systems within the boundaries stipulated in the applicable contract.

(12) “Discharge” includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substance which occurs and which affects lands and the surface and ground

waters of the state.

(13) “Discovery” means:

(a) ~~Either actual knowledge or knowledge of facts that could reasonably lead to actual knowledge of the existence of an~~ previously unreported incident, release, or discharge, ~~or an unmaintained storage tank system; or~~

(b) ~~Discovery as specified in the Petroleum Contamination Site Cleanup Criteria subsection 62-770.200(10), F.A.C.~~

(14) “Dispenser” means a dispensing system that is used to transfer regulated substances ~~vehicular fuel~~ from a fixed point to a vehicle or portable container.

(15) “Dispenser liner” means a liner installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(15) “Dispenser sump” means a storage tank system component installed as secondary containment beneath a dispenser to prevent discharges of regulated substances.

(16) “Dispensing system” means equipment that is used to transfer regulated substances from integral piping through a rigid or flexible hose or pipe to another point of use outside of the storage tank system.

(16)(17) “Double-walled” means a storage tank system or system component that has an outer tank wall, ~~or integral piping that has an outer wall that provides secondary containment of the primary tank or piping.~~

(17) “DRF” means Discharge Report Form 62-761.900(1).

(18)(18) “Empty” means all regulated substances have been removed so that no more than one inch in depth or 0.3 percent by weight of total system capacity of regulated substances remains in the storage tank system.

(19) “Existing contamination” means:

(a) The presence of free product or sheen on the groundwater;

(b) The presence of vapor levels in monitoring wells measured in accordance with DEP’s “Guidelines for Vapor Monitoring” or by a Flame Ionization Detector or an equivalent instrument in excess of:

1. 500 parts per million total petroleum hydrocarbons for storage tank systems containing gasoline or equivalent petroleum products; or

2. 50 parts per million total petroleum hydrocarbons for storage tank systems containing kerosene, diesel or other equivalent petroleum products;

(c) Results of analytical tests on a groundwater sample that:

1. Exceed the cleanup target levels for petroleum products’ contaminants of concern specified in Table I of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(c)1., F.A.C., above; or

(d) After July 13, 1998, results of analytical tests on a soil sample that:

1. Exceed the lower of direct exposure residential and leachability based on groundwater criteria cleanup target levels for petroleum products’ contaminants of concern specified in Table II of Chapter 62-777, F.A.C.; or

2. Indicate the presence of a hazardous substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above; or

3. Indicate the presence of a regulated substance that is not described in subparagraph 62-761.200(19)(d)1., F.A.C., above.

(20) “Facility” means a nonresidential location containing, or that contained, any stationary tank or tanks containing, or that contained regulated substances, and that have, or had, individual capacities greater than 110 gallons for UST systems.

(19)(21) “Free product” means the presence of nonaqueous phase liquid in the environment a regulated substance in excess of 0.01 foot in thickness, measured at its thickest point, floating on water, surface water or groundwater.

(22) “Hazardous substances” means those substances defined as hazardous substances in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(23) “Heating oil” means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces.

(24) “High viscosity” means a pollutant with a viscosity of 30 centistokes (cSt) and higher at 40 degrees Centigrade.

(25) “Hydraulic lift tank” means a tank that holds hydraulic fluid for a closed-loop mechanical system used to operate lifts, elevators, and other similar devices.

(20)(26) “Hydrostatic test” means a containment integrity test for a storage tank system or storage tank system component that is performed in accordance with this Chapter using equilibrium and the pressure of liquids to ~~test the integrity of the tank or system component.~~

(21)(27) “Impervious” means:

(a) A synthetic material or another material ~~registered~~approved in accordance with subsection 62-761.850(2), F.A.C., that is compatible with the stored regulated substance, and has a permeability rate to the regulated substance stored of 1×10^{-7} cm/sec or less; or,

(b) For concrete structures, a material that:

1. Meets the design and construction standards of Design Considerations for Environmental Engineering Concrete Structures, ACI 350.4R-04, 2004 and Control of Cracking in Concrete Structures (Reapproved 2008), ACI 224R-01, 2008, American Concrete Institute (ACI), published by ACI, 38800 Country Club Drive, Farmington Hills, Michigan 48331, hereby adopted and incorporated by reference ~~ACI 350R-89 and ACI 224R-89~~; or

2. Is applied to the concrete in accordance with Design, Installation, and Maintenance of Coating Systems for Concrete Used in Secondary Containment, SSPC-TU 2/NACE 6G197, July 2009, SSPC: The Coatings Society/NACE International, Published by NACE Reports, SSPC, 40 24th Street, 6th Floor, Pittsburgh, Pennsylvania 15222-4643, or NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and available at the addresses given ~~NACE International Standard RP0892-92. Standard Recommended Practice - Coatings and Linings over Concrete for Chemical Immersion and Containment Service SP0892-2007~~

(22)(28) “In contact with the soil” means any portion of a storage tank system, that physically touches the soil or, if not in direct contact with the soil, is separated from the soil only by a casing, wrapping, or other material that is not impervious, integral piping connected to USTs, or any portion of a tank, that:

(a) ~~Physically touches the soil; or~~

(b) ~~Is not in direct contact with the soil, and is separated from the soil only by a casing, wrapping, or other material that is not impervious.~~

(c) ~~Those portions of integral piping that are elevated and that are not in direct contact with the soil are excluded from this definition.~~

(23)(29) “Incident” is a condition or situation indicating that a release or discharge may have occurred from a storage tank system or system component.

(24) “INF” means Incident Notification Form 62-761.900(6).

(25)(30) “In-service” means a storage tank system which contains greater than one inch or 0.3% by weight of regulated substance, or where the owner or operator has not reported to the Department pursuant to subsection 62-761.405(2), F.A.C., and that the tank is out-of-service pursuant to subparagraph 62-761.800(1)(a)2., F.A.C. ~~is being actively maintained and operated in accordance with this Chapter. Non compliance with any specific rule within this Chapter does not exclude the system from being considered “in service.” Subject to the above, a storage tank system is also considered to be in service if it:~~

(a) ~~Contains regulated substances or has regulated substances regularly added to or withdrawn from the system;~~

(b) ~~Is emptied solely for the purpose of cleaning, routine maintenance, or a change in product, for a time period not exceeding 45 days; or~~

(c) ~~Contains non regulated substances and is still maintained in an in-service status at the request of the owner or operator.~~

(26)(34) “Integral piping” means on-site piping, originating or terminating at the regulated storage tank or tanks, that conveys regulated substances. Integral piping, not including vapor recovery lines and vent lines, includes all valves, elbows, joints, flanges, pumps, and flexible connectors, associated with the pipe originating at the storage tank up to the:

(a) Union of the piping with the dispenser~~dispensing system~~;

(b) Fill cap or fill valve; or

(c) Forwarding pump used for transferring regulated substances to a flow-through process tank or an industrial production or manufacturing point of use; ~~or~~

(d) ~~First flange or connection within the loading rack containment area.~~

(27) “Integrity test” means a determination of the liquid tightness of a storage tank system or system component using one of the following types of tests:

(a) “Interstitial integrity test” means an evaluation of the interstitial space in a double-walled storage tank system or system component using vacuum, pressure, liquid level monitoring systems, or equivalent test methods certified by a Nationally Recognized Testing Laboratory; or

(b) “Primary integrity test” means an evaluation of the liquid tightness of the primary tank or integral piping.

(c) “Containment integrity test” means an evaluation of the liquid tightness of hydrant pits, isolation valve pits, piping sumps, dispenser sumps, and spill containment systems.

(32) “Internal lining” means a material that is applied internally on USTs to protect the tank from internal corrosion.

(28) “Interstice” means the space between the primary and secondary wall of a storage tank system or system component.

(29)(33) “Interstitial monitoring” is a method of release detection in which the interstice is monitored. release detection method that is used to determine the presence of regulated substances or water between the primary and secondary containment. Interstitial monitoring can be performed within:

(a) A closed interstitial space between two steel or impervious barriers that are sealed, not open to the atmosphere, and designed to be tested for a breach of integrity of the interstitial space; or

(b) An open interstitial space between two steel or impervious barriers that are open to the atmosphere, and not designed to be tested for a breach of integrity of the interstitial space.

(34) “Liner” means an impervious material that meets the performance standards of paragraph 62-761.500(1)(d), F.A.C., that is used externally as a method of secondary containment.

(30)(35) “Maintenance” means the normal operational upkeep in accordance with Rule 62-761.700, F.A.C., to prevent a storage tank system or system component from releasing or discharging regulated substances.

(31)(36) “Nationally Recognized Testing Laboratory” means an international or national organization or governmental entity that can perform quantitative and qualitative tests on storage tank system equipment, evaluate the test data and equipment performance, and make determinations of the equipment’s capability of meeting the technical requirementsstandards of this Chapter. A Nationally Recognized Testing Laboratory shall have at least five years of professional storage tank system equipment testing experience. Nationally Recognized Laboratories include organizations such as Underwriter’s Laboratories, Carnegie Mellon Research Institute, Midwest Research Institute, Ken Wilcox Associates, Factory Mutual, and American Board of Engineering and Technology (ABET) Accredited Universities.

(32) “New” means a storage tank system or system component that is installed after (effective date of the rule).

(33)(37) “On-site” means on the same or geographically contiguous property as the facility regulated under this Chapter, that is under the same ownership or control, The property and which may be divided by a public or private right-of-way or an easement.

(34) “Operability test” means a test performed to determine if electronic and mechanical release detection and overfill protection devices or systems are functioning as designed and in accordance with manufacturers specifications.

(38) “Operational life” refers to the period from the start of installation of the storage tank system to the completion of the closure of the storage tank system in accordance with subsection 62-761.800(2), F.A.C.

(39) “Operator” means any person operating a facility, whether by lease, contract, or other form of agreement.

(35)(40) “Out-of-service” means a storage tank system or system component meeting the requirements in subsection 62-761.800(1), F.A.C., and is designated as an out-of-service system by the owner or operator to the Department on Form 62-761.900(2), F.A.C. with notification in accordance with Rule 62-761.405(2), F.A.C. that:

(a) Is designated as an out of service system by owner or operator notification to the Department on Form 62-761.900(2);

(b) Is empty as defined in subsection 62-761.200(18), F.A.C.; and

(c) Does not have regulated substances transferred into or withdrawn from the tank as specified in subsection 62-761.800(1), F.A.C., for a maximum time of:

1. Two years of being taken out of service for USTs; or

2. Ten years of being taken out of service for storage tank systems with secondary containment.

(36)(41) “Overfill” is an incident a release or discharge that occurs when a tank is filled beyond its capacity.

(37) “Overfill protection” is a device or method for preventing an incident, release, or discharge from a storage tank during filling of the storage tank system.

(42) “Owner” means any person as defined in Section 376.301(23), F.S., owning a facility.

(38)(43) “Pesticides” mean any substance or mixture of substances, as defined in 487.201, F.S., intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the Department of Agriculture and Consumer Services by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term “pesticide” does not

include any article that:

(a) Is a "new animal drug" within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act;
(b) Has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or

(c) Is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection, means all preparations, products, and substances included in the Department of Agriculture and Consumer Services' Rule 5E 2.002, F.A.C.

(44) "Petroleum" includes:

(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and

(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph 62-761.200(44)(a), F.A.C.

(45) "Petroleum product" means any liquid fuel commodity made from petroleum.

(a) Forms of fuel considered to be petroleum products include all fuels known or sold as:

1. Diesel fuel;
2. Kerosene;
3. Gasoline; and
4. Fuels containing mixtures of gasoline and other products.

(b) Forms of fuel excluded from this definition are:

1. Liquefied petroleum gas;
2. American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils;
3. Bunker C residual oils;
4. Intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher;
5. Asphalt oils; and
6. Petrochemical feedstocks.

(39)(46) "Pipe" or "piping" means any hollow cylindrical or tubular conveyance through which regulated substances flow.

(40)(47) "Piping sump" or "Submersible turbine pump sump" means a storage tank system component liner installed as secondary containment or a monitoring port at the top of a tank or lowest point in the integral piping to detect releases.

(48) "Pollutants" includes any "product" as defined in Section 377.19(11), F.S., pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(49) "Pressure test" means a test to determine the integrity of integral piping performed in accordance with subparagraph 62-761.640(5)(a)1., F.A.C.

(41)(50) "Pressurized piping" means piping through which regulated substances flow due to a pump that is not located at the dispenser/dispensing system.

(42)(51) "Product" as defined in Section 377.19(11), F.S., means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, used oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(52) "Registered Precision Tank Tester" means a contractor that performs tightness tests on USTs, and small diameter piping connected to USTs, that is registered by the Department of Business and Professional Regulation pursuant to Chapter 489, F.S.

(43) "Registration form" means Storage Tank Facility Registration Form 62-761.900(2).

(44)(53) "Regulated substance" means a liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), that is a pollutant or a hazardous substance, or any mixture of the two, when stored in a storage tank system UST.

(45)(54) "Release" means:

(a) A discharge; or

(b) A loss of regulated substances from a storage tank system or system component into the system's secondary containment.

(46)(55) "Release detection" means a method of:

(a) ~~Determining whether a discharge of regulated substances has occurred; or~~

(b) ~~detecting the presence of regulated substances within a storage tank system's or system component's secondary containment; and/or detecting other conditions or situations indicative of a release or discharge.~~

(56) ~~"Release detection response level" is the point of measurement, calculation, observation, or level that is established for each individual release detection device or method at which an investigation must be initiated to determine if an incident, release, or discharge has occurred.~~

(47)(57) ~~"Repair" means to restore or replace any defective or damaged parts of a storage tank system or system component; in accordance with Rule 62-761.700, F.A.C. Replacement of a non-defective part is not a repair.~~

(48)(58) **"Residential storage tank system"** means a storage tank system that services a non-commercial building that is used exclusively as a dwelling unit which means a structure that is used as a home or residence by one or more persons who maintain a common household, excluding transient occupancies, is located on property used primarily for dwelling purposes, and the storage and use of regulated substances in the tank is for residential purposes.

(49)(59) ~~"Secondary containment" means a release detection and discharge prevention system that meets the performance requirements standards of paragraph 62-761.500(1)(b), F.A.C., and includes dispenser sumps liners, piping sumps, spill containment systems, the outer wall of double-walled tanks and integral piping, or the liner systems, or single-walled tanks or piping systems that are contained within a liner or an impervious containment area surrounding single-walled tanks or integral piping.~~

(50)(60) ~~"Sheen" means a regulated substance less than or equal to 0.01 foot in thickness, measured at its thickest point, or visibly observed, floating on surface water, groundwater, or within secondary containment.~~

(61) ~~"Significant loss or gain" means the sum of losses and gains of a regulated substance over a 30 day or monthly period that exceeds:~~

(a) ~~For tanks with capacities between 111 and 2,000 gallons with an individual flow through less than 5,000 gallons during the previous 30 days:~~

1. ~~One percent of the tank capacity; or~~
2. ~~One percent of the total weekly output; or~~
3. ~~Fifty gallons, whichever is greatest; or~~

(b) ~~For tanks with capacities greater than 2000 gallons, or tanks with an individual flow through exceeding 5,000 gallons during the previous 30 days:~~

1. ~~One percent of the tank capacity; or~~
2. ~~One percent of the amount of product dispensed during the previous 30 days, plus 130 gallons, whichever is greatest.~~

(62) ~~"Small diameter piping" means integral piping with an internal diameter of three inches or less that is utilized for transporting regulated substances.~~

(51) ~~"Spill containment system" means a fixed component that is designed to prevent a discharge of regulated substances from the tank fill pipe.~~

(52)(63) ~~"Storage tank system" means a tank used to contain regulated substances, its integral piping, and all its components, including dispensers dispensing systems, spill containment systems devices, overfill protection systems devices, secondary containment systems, and any associated release detection equipment. A storage tank system is a "storage system" as defined in Chapter 376.301, F.S.~~

(53) **"Storage tank system component" or "system component" means any part (mechanical, electrical, and plumbing) of the storage tank system that is essential** for a tank system to operate properly and safely. This includes tanks, integral piping, sensors, sumps, pumps, including dispensers, spill containment systems, overfill protection systems, secondary containment systems, and any associated release detection equipment.

(54)(64) ~~"Suction piping" means piping through which regulated substances flow due to a pump located at the dispenser dispensing system.~~

(55)(65) ~~"Tank" means an enclosed stationary container or structure that is designed or used to store regulated substances, and the volume of which, including the volume of underground piping, is ten percent or more buried beneath the surface of the ground.~~

(66) ~~"Tightness test" means a test for an underground storage tank or its small diameter piping that is performed in accordance with subparagraphs 62-761.640(3)(f)1. and (4)(b), F.A.C., by a precision tank tester registered with the Department of Business and Professional Regulation under Chapter 489, F.S.~~

(67) ~~"UST" means an underground storage tank.~~

(68) ~~"UST Category A system" means a system containing pollutants that was installed on or before June 30, 1992, or a system containing hazardous substances that was installed before January 1, 1991.~~

(69) ~~"UST Category B system" means a system containing pollutants that was installed after June 30, 1992, or a~~

system containing hazardous substances that was installed on or after January 1, 1991, and before July 13, 1998.

(70) “~~UST Category C system~~” means a system that was installed on or after July 13, 1998. USTs that are removed and relocated on or after July 13, 1998 are considered Category C systems.

(71) “Unmaintained” means:

(a) A storage tank system that was not closed in accordance with Department rules; or

(b) An out of service storage tank system that is not returned to in-service status within:

1. Two years of its being out of service for USTs; or

2. Ten years of its being out of service for storage tank systems with secondary containment.

(72) “Upgrade” means the addition or retrofit of cathodic protection, internal lining, spill prevention, overfill protection, or secondary containment, to a storage tank system, or the installation of single wall corrosion resistant storage tanks, to improve the ability of the storage tank system to prevent discharges of regulated substances.

(56) “Vapor Corrosion Inhibitor” (VCI) means a chemical substance that volatilizes from a liquid or solid through vapor pressure and then moves freely within an enclosed airspace where the molecules preferentially adsorb onto metal surfaces and create a protective layer that inhibits the corrosive action of water, oxygen, acid gas molecules, and other corrosive agents with the metal surfaces.

Retention of this language is important in defining vapor-corrosion inhibitor technology that is currently being used in sump corrosion prevention efforts and for developing applications for USTs. It does no harm and will had value and understanding to tank owners and operators.

(73) “Vehicular fuel” means a petroleum product used to fuel motor vehicles, including aircraft, watercraft, and vehicles used on and off roads and rails.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 489.133 FS. History—New 12-10-90, Amended 5-4-92, 3-8-94, Formerly 17-761.200, Amended 9-30-96, 7-13-98, 6-21-04,_____.

Substantial rewording of Rule 62-761.210, F.A.C., follows. See Florida Administrative Code for present text.

62-761.210 Reference RequirementsStandards.

(1) Referenced requirements are available for inspection at the County Offices, and the Department of Environmental Protection’s District and Tallahassee Offices, and directly from the source.

(2) Titles of documents. References to documents listed in paragraphs 62-761.210(2)(a) through (j), F.A.C., below are made throughout this Chapter. Each document or part thereof is adopted and incorporated as a guideline only to the extent that it is specifically referenced in this Chapter. To the extent that the provisions contained in the following reference requirements conflict with this Chapter, the Department’s requirements as stated in this Chapter shall control.

(a) American Petroleum Institute (API), 1220 L Street, N.W. Washington, D.C. 20005, (202) 682-8000, or at <http://www.api.org/>.

1. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996;

2. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011;

3. Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996; and

4. Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006.

(b) ASME International (founded as the American Society of Mechanical Engineers), 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900, (800) 843-2763, or at <http://www.asme.org/>; Process Piping, B31.3-2004, 2012 Edition.

(c) NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, (800) 797-6223, or at <http://www.nace.org/>;

1. Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition; and

2. Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition.

(d) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169-7471,

(800) 344-3555, or at www.nfpa.org/:

1. Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition;
 2. Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks,
 3. Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition.
 - (e) National Institute of Standards and Technology (NIST), NIST, 100 Bureau Drive, Stop 1070, Gaithersburg,
MD 20899-1070, (301) 975-NIST (6478), or at <http://www.nist.gov/index.html>.
 - (f) National Leak Prevention Association (NLPA), Route 2 Box 106A, Falmouth, Kentucky 41040, (702) 832-
2260, or at <http://www.nlpa-online.org/>; **NLPA Standard 631, 1991.**
 - (g) Petroleum Equipment Institute (PEI), Post Office Box 2380, Tulsa, Oklahoma 74101-2380, (918) 494-
9696, or at www.pei.org/:
 1. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev.,
2011 Edition; and
 2. Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary
Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition.
 - (h) Steel Tank Institute (STI), 944 Donata Court, Lake Zurich, Illinois 60047, (847) 438-8265, or at
<https://www.steeltank.com/>:
 1. sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks,
sti-P3®, Rev. 2013; and
 2. Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid
Storage and Dispensing Systems, STI R892, Rev. January 2006;:
 3. Cathodic Protection Testing Procedures for sti-P3® UST's, STI R051-06, (R051), Rev. January 2006;
 4. Storage Tank Maintenance STI R111, (R111), Rev. July 2011;
 5. Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, STI R972, Rev.
January 2006;
 6. Standard for Dual Wall Underground Steel Storage Tanks, F841, Rev. January 2006;
 7. Specification for External Corrosion Protection of FRP Composite Steel USTs - ACT-100®, F894, Rev.
September 2011;
 8. Permatank®: Specification for Permatank®, F922, Rev. January 2013; and
 9. Specification for External Corrosion Protection of Composite Steel USTs - ACT-100-U®, F961, Rev.
September 2013.
 - (i) Underwriters Laboratories Standards (UL), 333 Pfingsten Road, Northbrook, Illinois 60062-2096, (847)
272-8800, or at www.ul.com/:
 1. Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition;
 2. Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition;
 3. Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and
Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition; and
 4. External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition.
 5. Outline of Investigation for Underground Fuel Tank Internal Retrofit Systems, UL 1856, 2013 Edition.
 - (j) U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of
Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001, (202) 512-1800, or at
www.gpo.gov/:
 1. Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground
Storage Tanks (UST), Title 40, Part 280, July 2008; Published by Government Printing Office, Code of Federal
Regulations, 732 North Capitol Street, NW, Washington, DC 20401-0001; and
 2. Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, Published by
Government Printing Office, Code of Federal Regulations, 732 North Capitol Street, NW, Washington, DC 20401-
0001.
- (3) Applicability of Reference Requirements: Unless otherwise specified in this Chapter, **facilities installed**
after **June 30, 1992**, and before (*effective date of the rule*) are subject to the Reference Requirements listed in the
Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities
installed after (*effective date of the rule*) shall comply with this subsection on or after (*effective date of the rule*).

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History--New12-10-90, Amended 7-13-
98, 6-21-04,_____.

62-761.300 Applicability.**(1) General Requirements.**

~~(a) Underground storage tank systems:~~ The requirements of this Chapter, unless specified otherwise, apply to owners and operators of facilities, ~~and owners and operators of underground storage tank UST systems with individual storage tank capacities greater than 110 gallons, that contain or contained regulated substances. Unless otherwise specified in this Chapter, facilities installed after June 30, 1992, and before (effective date of the rule) are subject to the Reference Requirements listed in the Department's storage tank rules that were in effect at the time of facility construction or operation. Facilities installed after (effective date of the rule) shall comply with this subsection on or after (effective date of the rule).~~

1. ~~Vehicle fuel, subject to Chapter 17-61, F.A.C., after May 21, 1984;~~

2. ~~Pollutants or hazardous substances after December 10, 1990; or~~

3. ~~Regulated substances in unmaintained storage tank systems.~~

~~(b) This rule is applicable to non-residential facilities. Under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal UST rules (advisory information only not required by this Chapter).~~

(2) Exemptions: The following ~~underground systems~~ are exempt from the requirements of this Chapter:

(a) Any storage tank system storing any hazardous waste listed or identified under Subtitle C of the Resource Conservation and Recovery Act, or a mixture of such hazardous waste and other regulated substances;

(b) Any storage tank system regulated under the Toxic Substances Control Act (15 U.S.C. 2065);

(c) Any pesticide waste degradation system regulated under Chapter 62-660, F.A.C.;

(d) Storage tank systems used solely for temporary storage of mixtures of pesticides and diluent for reapplication as pesticides;

(e) Any storage tank system with a storage capacity of less than 30,000 gallons used for the sole purpose of storing heating oil for consumptive use on the premises where stored. "Heating oil" means any petroleum based fuel used in the operation of heating equipment, boilers, or furnaces;

(f) Any tank that contains asphalt or asphalt products not containing other regulated substances;

(g) Any storage tank system storing regulated substances that are solid or gaseous at standard temperature and pressure;

~~(h)~~ Any storage tank containing Liquid Petroleum Gas;

~~(h)(i)~~ Any storage tank system that:

1. ~~Contains a regulated substance at a concentration of less than two percent for pollutants and below the reportable quantities for hazardous substances under 40 C.F.R. 302; and~~

2. ~~Was never previously regulated under Chapter 376.30 through 376.309, F.S. or this Chapter; contains small quantities (de minimus, as per 40 C.F.R. Section 280.10(b)(5)) of regulated substances;~~

~~(i)(i)~~ Any storage tank system that contains wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;

~~(j)(k)~~ Any septic tank system;

~~(k)(l)~~ Any stormwater or wastewater collection system, including oil-water separator tanks;

~~(m)~~ Any surface impoundment, pit, pond, or lagoon;

~~(l)(n)~~ Any agricultural storage tank system of 550 gallons capacity or less that is used for agricultural purposes;

~~(m)(o)~~ Any residential storage tank system used solely for residential purposes. However, under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to federal underground storage tank rules;

~~(n)(p)~~ Any emergency spill or emergency overflow containment storage tank system that is emptied as soon as possible after use, and that routinely remains empty;

(o) Any flow-through process tank system. For industrial and manufacturing facilities, integral piping is considered to terminate at the forwarding pump or valve used to transfer regulated substances to process, production, or manufacturing points of use or systems within the facility;

~~(p)(q)~~ Any storage tank system, liquid trap, or associated gathering lines directly related to oil or gas production and gathering operations regulated by Chapter 377, F.S.; however, this exclusion does not apply to storage tanks that contain refined products;

~~(q)(r)~~ Any equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift or fluid tank systems that hold hydraulic fluid for closed-loop mechanical systems used to operate lifts, elevators, and other similar devices and dielectric fluid (cooling and lubricating oil) systems used for electrical

equipment and electrical equipment tank systems;

(r)(t) Any pipeline, piping and “break-out” tanks directly connected to the pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration, pursuant to Title 49, Parts 190-199 of the Code of Federal Regulations facilities;

(s)(u) Any storage tank system containing radionuclides or that is part of an emergency generator system for nuclear power generation at facilities regulated by the Nuclear Regulatory Commission under 10 C.F.R. Part 50 Appendix A;

(t)(v) Any vapor recovery holding tanks and associated vapor recovery piping systems; or

(u) Any storage tank system containing biofuel that has a concentration of regulated substance of five percent or less by volume.

(v)(w) Any rail or tanker truck loading or unloading operations (loading racks) specified in Chapter 5 of NFPA 30.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.300, Amended 7-13-98, 6-21-04, _____.

62-761.350 Operator Training and Certification (Reserved for Rulemaking)

62-761.400 Registration and Financial Responsibility.

(1) For installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction begins.

(b) A completed Form 62-761.900(2), Storage Tank Facility Registration Form (Registration Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the Department **no later than 30 days prior to installation**. Copies of the Registration Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(c) A completed Form 62-761.900(5), Underground Storage Tank System Installation and Removal Form for Certified Contractors (Certified Contractors Form), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, shall be submitted in paper or electronic format to the County no later than **21** days after installation of a storage tank system, **storage tank or integral piping**. Copies of the Certified Contractors Form are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or, www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(2) For change in service status or closure pursuant to Rule 62-761.800, F.A.C.:

(a) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days after completion of the change in service status.

(b) A completed Certified Contractors Form shall be submitted to the County in paper or electronic format no later than 10 days after removal of a storage tank system.

(3) A completed Registration Form shall be submitted to the Department in paper or electronic format within 10 days of the following changes or discovery:

(3) Financial responsibility.

(a) Any change in the owner or operator of a facility or of a storage tank system.

(a) General requirements.

1. The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance. Financial responsibility is only required for tanks containing petroleum or petroleum products. Financial responsibility is the ability to pay for corrective action and third-party liability resulting from a discharge at the facility.

2. The demonstration of financial responsibility shall be made by the owner or operator in accordance with C.F.R. Title 40, Part 280, Subpart H.

3. Financial responsibility requirements for petroleum storage systems containing petroleum products may be supplemented by participation in the Florida Petroleum Liability Restoration and Insurance Program to the extent provided by Section 376.3072, F.S.

4. ~~Notwithstanding the owner's or operator's financial responsibility status, the owner or operator may, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.~~

~~(b) Any change or correction in the information reported in the Registration Form. A change within the same blend of regulated substances should not be reported (e.g., regular unleaded to premium unleaded gasoline);~~

~~(b) The minimum requirements for financial responsibility for USTs containing petroleum or petroleum products shall be the same as provided by C.F.R. Title 40, Part 280, Subpart H.~~

~~(c) A change from a regulated substance to a non-regulated substance; and~~

~~(d) The discovery of an unregistered storage tank system.~~

~~(1) General registration requirements.~~

~~(a) The owner or operator of any facility, or the owner or operator of a storage tank system shall register the storage tank system with the Department on Form 62-761.900(2).~~

~~(b) A completed registration form shall be submitted to the Department no later than 30 days after regulated or hazardous substances are put into any new storage tank system.~~

~~(4)(2) Registration fees.~~

~~(a) Registration fees are due from the tank or facility owner or operator, as indicated in this section, for all registered storage tank systems required to be registered. Registration fees except for storage tank systems that have been properly closed in accordance with subsection 62-761.800(2), F.A.C., will no longer be due once any outstanding fees have been paid.~~

~~(b) A registration fee of \$50.00 per tank or vessel shall be submitted for each initial registration of a storage tank system. The fee shall be paid within 30 days after receipt of an invoice by the Department.~~

~~(c) A renewal fee of \$25.00 per tank shall be paid to the Department for each storage tank system not meeting the closure requirements of subsection 62-761.800(2), F.A.C. by July 1 each year.~~

~~(d) A replacement fee of \$25.00 per tank shall be paid to the Department for each tank that is replaced for the purpose of facility upgrading, within 30 days after receipt of an invoice by the Department.~~

~~(e) A late fee of \$20.00 per tank shall be paid to the Department for any renewal that is received after July 31.~~

~~(f) Upon receipt of payment of all applicable initial registration fees and annual renewal fees, each facility shall receive a registration placard, pursuant to Section 376.3077, F.S. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the storage tank system is located. Posted on the Department website will be information regarding those motor fuel facilities who have not timely paid their registration fees. Each facility shall receive a registration placard upon payment of all applicable fees. The placard shall be displayed in plain view in the office, kiosk, or at another suitable location at the facility where the tank is located.~~

~~(5) Unless a current registration placard is displayed in plain view as required by paragraph 62-761.400(4)(f), F.A.C., no motor fuel may be deposited into a storage tank required to be registered pursuant to this Rule. Facility owners, operators and suppliers are each responsible for compliance with this provision.~~

~~(6) Revocation of Registration Placard. (Reserved for Rulemaking)~~

~~(7) Delivery prohibitions. (Reserved for Rulemaking)~~

Rulemaking Specific Authority 376.303, 376.322(2) FS. Law Implemented 376.303, 376.309, 376.323, 376.3077, 489.133 FS. History—New 12-10-90, Formerly 17-761.400, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.405 Notification.

(1) For Installations:

(a) For the purposes of this subparagraph, installation shall mean the date that the storage tank system or system component placement or construction will begin.

(b) Notification shall be received by the County in writing or electronic format between 30 and 45 days before installation of a storage tank system or system component unless the County agrees to a shorter time period.

(c) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the installation work to confirm the date and time of the scheduled activities.

(2) For change in service status and closure:

(a) Notification shall be received by the County in writing or electronic format between 10 and 25 days before the initiation of the work unless the County agrees to a shorter time period.

(b) Notification shall also be received by the County in writing or electronic format between 48 and 72 hours prior to the initiation of the work to confirm the date and time of the scheduled activities.

(c) Closure Integrity Evaluation reports prepared in accordance with paragraph 62-761.800(3)(a), F.A.C., must be provided to the County with the notification of closure or change in service from a regulated substance to a non-regulated substance.

(3) Notification of the discovery of an incident shall be made to the County in writing or electronic format on Form 62-761.900(6), Incident Notification Form (INF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 72 hours of the discovery or before the close of the county's next business day; however, an INF need not be submitted if, within 72 hours of discovery, the investigation of the incident in accordance with Rule 62-761.430, F.A.C., confirms that a discharge did or did not occur. Copies of the INF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(4) Notification of the discovery of a discharge shall be made to the County in writing or electronic format on Form 62-761.900(1), Discharge Report Form (DRF), effective date, *(effective date of the rule)*, hereby adopted and incorporated by reference, within 24 hours of the discovery or before the close of the County's next business day. Copies of the DRF are available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History--New 12-10-90, Formerly 17-761.450, 62-761.450, Amended 9-30-96, 7-13-98, 6-21-04.

62-761.420 Financial Responsibility.

(1) Financial responsibility is the ability to pay for cleanup of a discharge and third-party liability resulting from a discharge of petroleum or petroleum product at the facility.

(2) The owner or operator of a facility, or individual tanks, if of different ownership, shall demonstrate financial responsibility to the Department for all storage tank systems until they are properly closed. If the owner and operator of a tank are separate persons, only one person is required to demonstrate financial responsibility. However, both persons are liable in event of noncompliance.

(3) The demonstration of financial responsibility for storage tank systems shall be made available for inspection by the Department or the County and shall be in accordance with Technical Standards And Corrective Action Requirements For Owners And Operators Of Underground Storage Tanks (UST) – Financial Responsibility, Title 40, Part 280, Subpart H, July 2008, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, hereby adopted and incorporated by reference, and is available from the address given or www.flrules.org/Gateway/reference.asp?No=Ref-000###.

(4) Notwithstanding the owner's or operator's financial responsibility status, the owner and operator shall, in accordance with Chapter 376 or 403, F.S., be liable for any discharge at the facility.

(5) Financial responsibility mechanisms may not include choice of law and venue in favor of jurisdictions other than Florida.

Rulemaking Authority 376.303 FS. Law Implemented 376.303, 376.309, 403.091 FS. History--Formerly 62-761.400, Amended

62-761.430 Incidents.

(1) Incidents include:

(a) The following positive responses of release detection devices or methods described in Rule 62-761.600, F.A.C.:

1. Any visual inspection of any part of a storage tank system, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances that reveals significant pitting corrosion with more than a fifty percent loss of its original design thickness or that may adversely affect design integrity, or cracking, splitting, blistering, delamination, signs of corrosion, structural damage, leakage, or other similar problems with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C.;

Zerust supports the 50% loss of original design thickness concept.

2. Any visual observation of regulated substances in a piping or dispenser sump;
 3. Any alarm that indicates that liquid, vacuum, or pressure monitoring levels are not being maintained, or that liquid has been detected by a sensor in a normally dry interstice;
 4. Any visual observation that indicates that liquid monitoring levels are not being maintained;
 5. Any vacuum or pressure change of 50% from one month to the next, or any cumulative change of vacuum or pressure exceeding 50% of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge;
 6. Any visual inspection that indicates the presence of groundwater or surface water, other than condensate, and/or regulated substances in the interstice;
 7. Any instance where a mechanical line leak detector is restricting flow;
 8. Any instance where an electronic line leak detector has shut off power to the pump;
 9. Any instance where a monitoring device has shut off the pump; and
 10. Liquid in excess of one inch in an out-of-service storage tank.
 - (b) A failed integrity test for the following components:
 1. Double-walled storage tanks;
 2. Double-walled integral piping;
 3. Piping sumps;
 4. Dispenser sumps; and
 5. Spill containment systems.
 - (c) Other unusual operating conditions, such as the erratic behavior of product dispensing equipment, the sudden loss of product from a storage tank system, or any unexplained presence of groundwater or surface water in a tank or an interstitial space;
 - (d) The presence of odors of a regulated substance from surface water or groundwater, soil, basements, sewers and utility lines at a facility or in the surrounding area from which it could be reasonably concluded that a release or discharge may have occurred; and
 - (e) The loss of a regulated substance from a storage tank system, such as from an overflow, spills in the dispensing area exceeding 25 gallons on impervious surfaces, other than secondary containment, provided that the loss does not come in contact with pervious surfaces.
- Makes it consistent with the intent section of the federal register for the 25 gallon requirement*
- (2) If an incident occurs at a facility, actions shall be taken within 24 hours of discovery to investigate the incident to determine if a discharge has occurred.
 - (3) Notification of the discovery of any incident shall be made to the County in writing or electronic format on an INF within 72 hours of the discovery or before the close of the County's next business day. However, an INF is not required to be submitted if, within 72 hours of discovery, the investigation of the incident confirms that a discharge did or did not occur.
 - (4) In cases where an INF is required to be submitted, the investigation shall be completed within 14 days of the date of discovery of the incident to determine if a discharge has occurred. Incident investigations that require additional time can be extended with the written approval of the Department or the County. However, if the investigation goes beyond 45 days of the date of discovery, the storage tank system shall be placed out-of-service until such time the investigation is completed and resolved.
 - (5) At the end of the 14 day time period, or at the end of the alternate time period approved by the Department or the County to investigate the incident, either a DRF or a written confirmation and explanation that the incident was not a discharge, including documentation showing that contamination is the manifestation of a previously reported discharge, shall be submitted to the County in writing or electronic format.
 - (6) The removal of any spill or loss of regulated substance into secondary containment shall be initiated within three days of discovery, and completed within thirty days of discovery.
 - (7) If a discharge is discovered at any time during the incident investigation, the discharge shall be reported on a DRF within 24 hours of discovery, or before the close of the next business day, and a discharge response shall be initiated in accordance with subsection 62-761.440(6), F.A.C.
 - (8) All incidents, regardless of whether an INF is required to be submitted, shall be documented and records kept until storage tank system closure in accordance with Rule 62-761.710, F.A.C. Test results or reports, which support the investigation findings, shall be maintained as records.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History—Formerly 62-761.820, Amended .

62-761.440 Discharges.**(1) Discharges include:**

(a) Laboratory analytical results of surface water or groundwater samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C.;

(b) Laboratory analytical results of soil samples indicating the presence of contamination by regulated substance contaminants of concern listed in Table B in Chapter 62-780, F.A.C. that exceed the lower of direct exposure residential or leachability based on groundwater criteria cleanup target levels in Chapter 62-777, F.A.C.;

(c) The presence of free product, a visible sheen, sludge, or emulsion of a regulated substance, or a regulated substance that is visibly observed in soil, on or in surface water, in groundwater samples, on basement floors, in open drainage ditches, in open excavations or trenches, in subsurface utility conduits or vaults, or in sewer lines at the facility; and

(d) A spill or overfill of a regulated substance to a pervious surface.

(2) Upon discovery of a discharge, the owner or operator shall report the discharge to the County on a DRF within 24 hours or before the close of the County's next business day.

(3) Copies of laboratory analytical results that confirm a discharge shall be submitted to the County within 24 hours of receipt of the results or before the close of the next business day in writing or electronic format.

(4) A request for a retraction of a submitted DRF shall be submitted to the County or the Department in writing or electronic format if evidence is presented that a discharge did not occur at the facility.

(5) A DRF does not need to be submitted:

(a) For a discharge that was previously reported to the appropriate County or the Department on a DRF;

(b) For petroleum or petroleum product de minimis discharges in accordance with subsection 62-780.560(1), F.A.C., unless the regulated substance has a more stringent reporting requirement specified in the following document which is hereby adopted and incorporated by reference, and is available from the address given: Designation, Reportable Quantities, and Notification, Title 40, Part 302, July 2002, U.S. Government Printing Office, Federal Digital System, Code of Federal Regulations, Electronic Code of Federal Regulations, Published by National Archives and Records Administration, Office of the Federal Register, 732 North Capitol Street, NW, Washington, DC 20401-0001, or www.flrules.org/Gateway/reference.asp?No=Ref-000###; or

(c) For non-petroleum de minimis discharges in accordance with Rule 62-780.550, F.A.C., unless the pollutant has a more stringent reporting requirement specified in Title 40, Part 302.

(6) Discharge response.

(a) When evidence of a discharge from a storage tank system is discovered, the following actions shall be taken:

1. Fire, explosion, and vapor hazards shall be identified and mitigated;

2. Actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules (e.g., Chapter 62-780, F.A.C., Contaminated Site Cleanup Criteria). Owners and operators are advised that other federal, state, or local requirements apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with Chapter 62-780, F.A.C.;

3. Each component of the storage tank system shall be integrity tested within three days of discovery of the discharge if the source and/or cause of the discharge is unknown unless the storage tank system has been properly placed out-of-service in accordance with subsection 62-761.800(1), F.A.C.;

4. The storage tank system component that is discharging shall be isolated from the system within three days of discovery of the discharge. If the component cannot be isolated from the system, within three days of discovery of the discharge the storage tank system shall not operate, dispense, or accept deliveries, or shall be placed out-of-service in accordance with Rule 62-761.800, F.A.C., until the component can be repaired or replaced;

5. If the storage tank system component that was found to be discharging will be repaired, it shall be repaired in accordance with Rule 62-761.700, F.A.C.;

6. If the storage tank system component that was found to be discharging will be replaced, it shall meet the storage tank system requirements in accordance with Rule 62-761.500, F.A.C.; and

7. If the storage tank system component that was found to be discharging will not be repaired or replaced, the storage tank system, if not already out-of-service, shall be placed out-of-service within 90 days or be closed in accordance with Rule 62-761.800, F.A.C.

Rulemaking Authority 376.303 FS. Law Implemented 376.303 FS. History--Formerly 62-761.820, Amended .

62-761.450 Notification and Reporting.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.450, Amended 9-30-96, 7-13-98, 6-21-04., Repealed.

Substantial rewording of Rule 62-761.500, F.A.C., follows. See Florida Administrative Code for present text.

62-761.500 Performance Standards for Category C Storage Tank Systems Requirements.**(1) General requirements.**

(a) Wellhead Protection. Persons are advised that Chapter 62-521, F.A.C., contains restrictions regarding the location of storage tank systems within 500 feet of a potable water well.

(b) Secondary containment.

1. The materials used for secondary containment shall be:

a. Impervious to the regulated substance and able to withstand deterioration from external environmental conditions;

b. Non-corrosive or of corrosion-protected materials **or by vapor corrosion inhibitor technologies;**
and

c. Of sufficient thickness and strength to withstand hydrostatic forces at maximum capacity to prevent a discharge.

2. For cathodically protected tanks and integral piping, secondary containment systems shall not interfere with the operation of the cathodic protection system. **For vapor corrosion inhibitor protected tanks, the secondary containment system shall provide containment for the vapor corrosion inhibitors.**

Reinstatement of this language establishes a level playing field that does not favor cathodic protection over vapor corrosion inhibitor technologies

3. Secondary containment systems shall be designed and installed to direct any release to a monitoring point or points.

4. Containment and interstitial, as applicable, integrity tests shall be performed for all spill containment systems, piping sumps, hydrant sumps, and dispenser sumps before placing the components into initial use. The tests shall be in accordance with manufacturer's requirements. If a hydrostatic test is used, it shall be performed for at least:

a. Twenty-four hours for field-fabricated components; or

b. Three hours for factory-made components.

5. An interstitial integrity test shall be performed on the storage tank after it is delivered and installed at the facility and before the storage tank is placed into service. This test shall be performed in accordance with manufacturer's requirements or with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100-11, 8th Rev., 2011 Edition, Petroleum Equipment Institute (PEI), Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380, and Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities, PEI/RP1200-12, 2012 Edition, Petroleum Equipment Institute (PEI) Published by PEI, P. O. Box 2380, Tulsa, OK 74101-2380.

6. An interstitial integrity test shall be performed on integral piping in accordance with PEI/RP100-11 and PEI/RP1200-12 before the integral piping is placed into service.

7. If double-walled spill buckets or double-walled sumps are installed on the system, an interstitial integrity test shall be performed in accordance with PEI/RP1200-12 before the component is placed into service.

(c) Cathodic protection.

1. Test stations. Cathodic protection systems shall be designed, constructed, and installed with test stations in accordance with NACE standards contained in paragraph 62-761.210(2)(c), F.A.C. Cathodic protection test stations shall provide direct access to the soil in close proximity to each cathodically protected structure for placement of reference electrodes, and monitoring wires that connect directly to cathodically protected structures. Facilities where direct access to soil in close proximity to cathodically protected structures is present, and where electrical connections to cathodically protected structures can be conveniently accomplished, need not have separate dedicated cathodic protection test stations.

2. The cathodic protection system shall be operated and maintained in accordance with subsection 62-761.700(2), F.A.C.

3. Any field-installed cathodic protection system shall be designed and installed by or under the direction of a Corrosion Professional.

4. Cathodic protection is not required for any field-fabricated primary storage tank that has been installed within a former single-walled storage tank as a means to upgrade to secondary containment. However, the former single-walled storage tank, which now becomes the secondary containment must be protected from corrosion.

5. Supplemental anodes that are added to a sti-P3 tank can be installed according to STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs.

(d) Compatibility. The primary and secondary walls of storage tank systems shall be made of, or internally lined with, materials that are compatible with the regulated substance stored in the storage tank systems and with substances or conditions present in the environment. All storage tank systems containing blends of ethanol, biodiesel, or other biofuels and additives shall be compatible with the regulated substances stored in the storage tank systems.

(e) All components of a storage tank system shall be installed in accordance with the manufacturer's instructions.

(f) All storage tank systems shall be installed in accordance with the following documents hereby adopted and incorporated by reference, and are available from the addresses given. Installation of Underground Petroleum Storage Systems, API Recommended Practice 1615, 6th Edition, 2011, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070.; Flammable and Combustible Liquids Code, NFPA 30, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Motor Fuel Dispensing Facilities and Repair Garages, NFPA 30A, 2012 Edition, National Fire Protection Association (NFPA), Published by NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169; Process Piping, B31.3-2004, 2012 Edition, ASME International (founded as the American Society of Mechanical Engineers), Published by ASME, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900; and PEI/RP100-11. Storage tanks with field-fabricated internal secondary containment shall be installed in accordance with manufacturer's specifications, UL 1856, and NLPA 631, hereby adopted and incorporated by reference, and are available from the addresses given.

(g) A Certified Contractor shall perform the installation of storage tank systems containing pollutants, including tanks, integral piping (excluding drop tubes), overfill protection and spill containment equipment, internal release detection equipment, cathodic protection systems, secondary containment systems, and dispensers, if the installation of the storage tank system component disturbs the backfill, or where the integral piping is connected or disconnected during installation.

(h) Whenever storage tanks and/or integral piping are installed or relocated after the *(the effective date of the rule)*, Record Drawings ("as-builts"), signed and sealed by a professional engineer licensed in the state of Florida, shall be completed and maintained as a record in accordance with Rule 62-761.710, F.A.C. The as-built drawing shall include all construction and equipment design specifications including exact dimensions, geometry, and locations of the storage tanks and/or integral piping, of the work completed under contract, and any changes made to the original specifications during the construction process. As-built drawings are not required for tanks that are installed or retrofitted with internal secondary containment.

(2) Storage Tanks.

(a) All storage tanks at a facility shall have secondary containment and shall be constructed or installed to provide for interstitial monitoring of the entire storage tank.

(b) Fiberglass reinforced plastic double-walled tanks shall be constructed in accordance with the following document, Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures, UL 1316, 1994 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference and available at the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(c) Cathodically protected double-walled steel tanks shall be:

1. Constructed in accordance with the following documents, or as applicable: Steel Underground Tanks for Flammable and Combustible Liquids, UL 58, 1996 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, and External Corrosion Protection Systems for Steel Underground Storage Tanks, UL 1746, 2007 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and are available from the addresses given;

2. Constructed in accordance with the following document, sti-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks, sti-P3®, Rev. 2013, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given ; or

3. Constructed in accordance with the following document, STI R972, Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given; or

4. Certified by a Nationally Recognized Testing Laboratory for any field-installed cathodic protection system, that these requirements are met, constructed and designed by a Corrosion Professional in accordance with the following document, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection, NACE Standard SP0285-2011 (formerly RP0285), 2011 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906, hereby adopted and incorporated by reference, and is available from the address given.

(d) Double-walled steel tanks coated with a fiberglass reinforced plastic composite jacketed steel tanks shall be constructed in accordance with UL 58 and UL 1746, ACT-100® Specification for External Corrosion Protection of FRP Composite Steel USTs - F894, Rev. September 2011, Steel Tank Institute (STI), 944 Donata Court, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(e) Jacketed steel tanks shall be constructed in accordance with UL 1746, or certified by a Nationally Recognized Testing Laboratory that these requirements are met.

(f) Double-walled storage tanks that meet the above performance requirements, that are constructed of equivalent material, have an equivalent design, or are corrosion protected shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(g) Tanks shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(h) Double-walled storage tanks that have been removed and that are to be reinstalled at a different location shall:

1. Be recertified that all original warranties are confirmed by the original manufacturer or the manufacturer's successor, and be reinstalled in accordance with the requirements in this section; or

2. Be recertified by a professional engineer licensed in the state of Florida that the storage tank meets all applicable requirements of this section; and

3. Proof of recertification shall be provided to the Department and County prior to the start of installation. The storage tank shall be re-registered in accordance with subsection 62-761.400(1), F.A.C.

(3) Integral piping.

(a) All integral piping, including remote fill piping that is in contact with the soil shall have secondary containment; or

(b) All integral piping that transports regulated substances over surface waters of the state shall have secondary containment and shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials; or

(c) All integral piping that is not in contact with the soil shall meet the construction requirements in paragraphs 62-761.500(3)(d)2. through 4., F.A.C., shall be UV rated if exposed to sunlight if made of non-metallic materials, and shall be registered in accordance with subsection 62-761.850(2), F.A.C., if made of non-metallic materials.

(d) Construction requirements.

1. Fiberglass reinforced plastic integral piping or other non-metallic double-walled integral piping installed in contact with the soil at a facility shall meet the requirements of Non-metallic Underground Piping for Flammable Liquids, UL 971, 1995 Edition, Underwriter's Laboratory, Published by Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096, hereby adopted and incorporated by reference, and is available from the address given, or certified by a Nationally Recognized Testing Laboratory that these requirements are met, and registered in accordance with subsection 62-761.850(2), F.A.C.

2. Coated steel double-walled integral piping shall be constructed in accordance with ASME B31.3. In addition, steel integral piping in contact with the soil shall be cathodically protected in accordance with the following documents: Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API Recommended Practice 1632 (2002), 3rd Edition, January 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070; Control of External Corrosion on Underground or Submerged Metallic Piping Systems, NACE Standard SP0169-2007, 2007 Edition, NACE International, Published by NACE International, 1440 South Creek Drive, Houston, TX 77084-4906; and Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems, STI R892, Rev. January 2006, Steel Tank Institute (STI), Published by Steel Tank Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047, hereby adopted and incorporated by reference, and available from the addresses given.

3. Metallic double-walled integral piping constructed of nonferrous materials such as copper shall be constructed in accordance with the requirements in Chapter 27 of NFPA 30, Piping Systems.

4. Integral double-walled piping constructed of other materials, design, or corrosion protection shall be registered with the Department in accordance with subsection 62-761.850(2), F.A.C.

(e) Integral piping shall be installed with a slope to a low point monitoring system to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(f) Pressurized integral piping systems connected to dispensers shall be installed with shear valves or emergency shutoff valves in accordance with Section 6.3 of NFPA 30A, Requirements for Dispensing Devices. These valves shall be designed to close automatically if a dispenser is displaced from its normal position. The valves shall be rigidly anchored independently of the dispenser. The valves shall be tested in accordance with PEI/RP1200-12 at the time of installation by a certified contractor to confirm that the automatic closing function of the valve operates properly and that the valve is properly anchored.

(g) All storage tanks located at an elevation that produces a gravity head on the dispenser or on integral piping positioned below the product level in the storage tank must be installed and maintained with an isolation block valve in accordance with Chapter 22.13 of NFPA 30, Tank Openings Other Than Vents, and located as close as practical to the storage tank. In addition, anti-siphon valves for suction and pressurized systems with dispensers that are subject to NFPA 30A, shall be installed and maintained in accordance with Section 11.2 of NFPA 30A, Marine Fueling - Storage. Storage tank systems without dispensers shall be installed with valves that will prevent the tanks from emptying if there is a leak or break in the integral piping.

(h) Storage tank systems using corrosion protection systems with vapor corrosion inhibitors that are registered in accordance with Rule 62-762.851(2), F.A.C. shall be designed and installed under the direction of a Corrosion Professional.

(Allows the use of VCI's for interstitial corrosion protection)

(4) Spill containment systems.

(a) Storage tank systems shall be installed with a spill containment system at each tank fill connection meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C..

(b) Fillbox covers shall be marked or the fill connection tagged in accordance with Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, API Recommended Practice 1637 (R2012), 3rd Edition, July 2006, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, hereby adopted and incorporated by reference, and is available from the address given, or with an equivalent method approved by the Department in accordance with subsection 62-761.850(1), F.A.C.

(c) Spill containment systems, including double-walled spill containment systems shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(5) Dispensers and dispenser sumps.

(a) The dispensers used for transferring fuels from storage tanks to vehicles or portable containers shall be installed and maintained in accordance with the provisions of NFPA 30 and Chapter 6, Fuel Dispensing Systems; Chapter 9, Operational Requirements; and Chapter 11, Marine Fueling of NFPA 30A.

(b) Dispensers shall be installed with a dispenser sump meeting the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and registered in accordance with subsection 62-761.850(2), F.A.C. The dispenser sump shall extend beneath the union of the integral piping and the dispenser, including the shear valve, if applicable.

(c) Dispenser sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C. The dispenser sump shall be capable of containing a release for the entire area beneath the dispenser.

(6) Piping sumps.

(a) Piping sumps shall meet the performance requirements of paragraph 62-761.500(1)(b), F.A.C., and be registered in accordance with subsection 62-761.850(2), F.A.C. The sumps shall be designed, constructed, and installed to minimize water entering the sump.

(b) Piping sumps shall be installed to allow for release detection in accordance with Rule 62-761.600, F.A.C.

(7) Overfill protection.

(a) Owners or operators shall ensure that the volume available in the storage tank is greater than the volume of regulated substances to be transferred to the storage tank before the transfer is made and shall ensure that any transfer is repeatedly monitored to prevent overfilling and spilling.

(b) Storage tank systems shall be equipped with an overfill device that:

1. Automatically shuts off flow to the storage tank when the storage tank is no more than 95% full;

2. Restricts flow to the storage tank when the storage tank is no more than 90% full and does not fill the storage tank beyond 95% capacity. Vent restriction devices such as ball float valves shall not be installed at facilities after (the effective date of the rule) unless the storage tank system meets the requirements of Section 7 of PEI/RP 100-11, UST Overfill Equipment Verification, Inspection and Testing; or

3. Alerts the transfer operator when the tank is no more than 90% full by triggering an alarm and does not fill the tank beyond 95% capacity.

(c) Used oil tanks that receive less than 25 gallons at one time are not required to have overfill protection.

(d) Storage tank systems with capacities of 2000 gallons or less that do not receive delivery by a mated (joined) tight fill adaptor connection of the delivery hose to the tank riser are exempt from overfill protection requirements provided that the tanks are never filled beyond 80% capacity.

(e) Overfill devices shall be registered in accordance with subsection 62-761.850(2), F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.500, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.510 Performance Standards for Category-A and Category-B Storage Tank Systems

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303-.3072 FS. History—New 12-10-90, Amended 5-4-92, Formerly 17-761.510, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.600 Release Detection Requirements Standards.

(1) General requirements.

(a) Storage tank systems shall have a method, or combination of methods, of release detection that:

1. Can detect a new release from any portion of the storage tank system;

(b) Any storage tank system without a method, or combination of methods, of release detection in accordance with this section, shall immediately provide a method of release detection, or immediately empty the storage tank system and place the affected system out-of-service, or close the system in accordance with subsection 62-761.800(2), F.A.C.

(c) Any component of a storage tank system with an interstice shall have a method of interstitial monitoring. Interstitial monitoring can be performed with vacuum, pressure, hydrostatic (liquid-level sensing), sensors or probes, and visual release detection methods.

2. Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability to ensure that the device is functioning as designed; and

3. Meets the applicable performance standards in Rule 62-761.640, F.A.C. All manufacturer's instructions, and the performance claims and their manner of determination described in writing by the equipment manufacturer or installer shall be retained for as long as the storage tank system is used.

(b) A release detection response level shall be described in writing for each method or combination of methods of release detection used for a storage tank system.

(c) A release detection method shall be established and provided for all storage tank systems upon installation.

(d) Except as otherwise specified in this Rule Rules 62-761.600-.640, F.A.C., the release detection method or combination of methods used at a facility shall be performed at least once every a calendar month, but not exceeding 35 days, to determine if a release from the storage tank system has occurred.

(e) Visual inspections. At least once a month, but not exceeding 35 days, any component of a storage tank system that contains, transfers, or stores, or is designed to contain, transfer, or store pollutants that can be inspected visually shall be visually inspected and documented as to its condition pursuant to Rule 62-761.710, F.A.C. Any visual inspection of any component a storage tank, dispenser, pipe, valve, pump, or other wetted portion of the system containing regulated substances that reveals significant pitting, or cracking, splitting, blistering, delamination, signs of corrosion, structural damage, leakage, or other similar problems with fiberglass, steel, polyethylene, or any other materials of construction for equipment registered in accordance with Rule 62-761.850(2), F.A.C., is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C. Repairs shall be made in accordance with Rule 62-761.700, F.A.C. A monthly visual inspection is not required for any system component using an electronic release detection method, but piping and dispenser sumps must be visually inspected every six months and records kept of the visual inspection. At least once a month, but not exceeding 35 days, any storage tank and component of a storage tank that can be inspected visually shall be visually inspected in accordance with paragraph 62-761.640(2)(e), F.A.C. A visual inspection is not required for any system component that has a

~~continuous or monthly electronic release detection sensor. Continuous electronic leak detection devices shall be inspected for proper operation on a monthly basis. Inspection may consist of visual observation or remote verification of proper operation.~~

(f) Electronic and mechanical release detection devices shall be:

1. Installed, calibrated, operated and maintained in accordance with the manufacturer's instructions and shall be designed and installed to provide service checks for operability to ensure that the device is functioning in accordance with subsection 62-761.700(3), F.A.C.; and

2. Registered in accordance with subsection 62-761.850(2), F.A.C., except that controllers or annunciators that are used to display leak detection test results are not required to be registered. A site suitability determination shall be performed for UST systems by December 31, 1998, in accordance with paragraphs 62-761.640(2)(a)-(d), F.A.C., for storage tank systems using groundwater or vapor monitoring wells for release detection. If the site suitability determination indicates that on-site conditions are unsuitable for external monitoring, another method of release detection must be used.

(g) Electronic release detection devices shall be inspected for proper operation at least once every calendar month, but not exceeding 35 days. A record or summary of the alarm history, sensor status and testing results related to potential releases shall be printed from any electronic release detection device or be provided to the department through electronic documentation. If the release detection system is not capable of printing records, a manual log shall be maintained of the alarm history, sensor status and testing results. Vapor monitoring plans shall be performed by December 31, 1998, for UST systems, in accordance with paragraph 62-761.640(2)(d), F.A.C., for storage tank systems using vapor monitoring for release detection.

(h) Release detection shall be constructed and installed so that groundwater, rainfall, or soil moisture will not render the release detection method used inoperable. Any component of a storage tank system with secondary containment shall have an interstitial monitoring method meeting the requirements of paragraph 62-761.640(3)(a), F.A.C.

(i) Storage tank systems that store fuel solely for use by emergency power generators are not required to comply with the release detection requirements of Rule 62-761.600, F.A.C. Pressurized piping, excluding bulk product piping, shall be equipped with a line leak detector that meets the standards of paragraph 62-761.640(4)(a), F.A.C. Gravity piping systems are exempt from this requirement.

(2) Storage Tanks.

(a) One or more of the following release detection methods shall be used:

1. Liquid level monitoring systems with electronic hydrostatic sensors. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid levels can not be maintained. Any alarm that indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Vacuum monitoring. This method shall be able to detect incidents by determining changes in vacuum levels within the interstice by continuous monitoring of vacuum levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if vacuum levels can not be maintained. Any alarm that indicates that vacuum levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

3. Pressure monitoring. This method shall be able to detect incidents by using an inert gas and determining changes in pressure levels within the interstice by continuous monitoring of pressure levels and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if pressure levels can not be maintained. Any alarm that indicates that pressure levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

4. Electronic sensors in a normally dry interstice. This method shall be able to detect the presence of liquid in the interstice or monitoring low point and to provide immediate electronic notification with an audible or visual alarm to the owner or operator if liquid is detected. Any alarm that indicates the presence of liquid, other than condensate is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

Clarification

5. Visually inspected liquid level monitoring systems. This method shall be able to detect incidents by determining changes in liquid levels within the interstice and monitoring reservoir. Any visual observation that

indicates that liquid levels are not being maintained is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

6. Visually inspected vacuum or pressure monitoring with gauges. This method shall be able to detect incidents by determining changes in vacuum or pressure levels within the interstice.

a. Vacuum or pressure readings shall be able to detect a 50% change from one month to the next, or any cumulative change of vacuum or pressure exceeding 50% of the initial level or of a vacuum or pressure level that is reestablished at the time of an incident investigation or annual testing of the gauge. Vacuum or pressure refreshment must be performed in accordance with manufacturer's specifications and the system's equipment registration in subsection 62-761.850(2), F.A.C. Any change indicated above is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

b. Liquid-filled gauges shall be calibrated using NIST traceable standards prior to initial operation, hereby adopted and incorporated by reference, and available at the address given. The gauges shall be operational at all times.

7. Visual monitoring of normally dry interstices. This method shall be able to detect the presence of liquid at a low point of the interstice. Any presence of groundwater or surface water, and/or regulated substances in the interstice is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

8. Visual monitoring of sumps. This method shall be able to detect the presence of liquid at a low point of the sump. The accumulation of water or condensation in the low point of the sump shall not interfere with the ability to detect regulated substances. Any presence of regulated substances in the sump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(3) Integral piping with secondary containment.

(a) One or more of the release detection methods in subsection 62-761.600(2), F.A.C., shall be used.

(b) In addition, pressurized small diameter integral piping in contact with the soil shall be equipped with a release detection system that can detect a leak within one hour. One of the following methods shall be used:

1. Mechanical line leak detectors. Mechanical line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and restrict flow within one hour. Any instance where the mechanical line leak detector is restricting flow is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

2. Electronic line leak detectors. Electronic line leak detectors shall be capable of detecting a discharge of 3.0 gph with a probability of detection of 0.95 and a probability of false alarm of 0.05 at an equivalent line pressure of 10 psi and shut off power to the pump. Any instance where the electronic line leak detector has shut off power to the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

3. Electronic interstitial monitoring devices. Storage tank systems without line leak detectors, shall have electronic interstitial monitoring devices that are capable of detecting a release of ten gallons within one hour and shutting off the pump. Any instance where the monitoring device has shut off the pump is considered a positive response. The positive response shall be recorded as part of the release detection records and reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(4) Annual operability testing of release detection systems. All release detection devices shall be tested annually at intervals not exceeding 12 months to ensure proper operation. The test must either simulate an actual alarm condition or shall be conducted according to manufacturer's specifications, and shall include, at a minimum, a determination of whether the device operates as designed. Remote testing of the system can be performed by the manufacturer if the remote test is included in the third party certification by a Nationally Recognized Testing Laboratory.

(5) Records shall be kept for three years in accordance with Rule 62-761.710, F.A.C.

(j) Any storage tank system not provided with a method, or combination of methods, of release detection in accordance with this section, shall be closed in accordance with subsection 62-761.800(2), F.A.C., by the date upon which release detection is to be provided.

(k) Groundwater and vapor monitoring wells meeting the standards for external monitoring specified in paragraphs 62-761.640(2)(a) (d), F.A.C., that are no longer used for release detection, shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 2010. Wells not meeting these standards shall be closed in

accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are:

1. Used for contamination assessment purposes as specified in paragraph 62-761.600(2)(d), F.A.C.; or
2. Required by rules adopted by a County government in accordance with Section 376.317, F.S.

(2) By December 10, 1990, vehicular fuel petroleum storage tank systems of greater than 550 gallon capacity shall be provided with release detection. Release detection for all other storage tank and integral piping systems in contact with the soil shall be provided by December 31 of the year shown in Table RD.

TABLE RD

Year Storage Tank System Installed	Year Release	Detection Required		
	1990	1991	1992	1993
Before 1970 or unknown	P/RD			
1970-1974	P	RD		
1975-1979	P		RD	
1980-1990	P			RD

P = Installation of Release Detection for Pressurized Piping

RD = Installation of Release Detection for Tanks and Suction Piping.

(3) Effective December 31 of the applicable year specified under the schedule in Table RD, any groundwater monitoring plan or spill prevention control and countermeasure plan implemented before December 22, 1990, shall be capable of detecting the leak rate or quantity specified in paragraph 62-761.640(1)(a), F.A.C.

(4) UST systems that store fuel solely for use by emergency power generators are not required to comply with the release detection standards of Rules 62-761.600 through 62-761.640, F.A.C.

(5) Monitoring wells shall meet the standards of subsection 62-761.640(2), F.A.C., by December 31, 1998. Wells that do not meet these standards shall be closed in accordance with subsection 62-532.500(4), F.A.C., by December 31, 1998, unless the wells are required by a rule that was adopted by a County government in accordance with Section 376.317, F.S. However, if a monitoring well is used solely for the purpose of monitoring petroleum contamination in accordance with Chapter 62-770, F.A.C., the well does not have to be closed until the completion of the site rehabilitation pursuant to Chapter 62-770, F.A.C. Covers of leak detection monitoring wells redesignated as site assessment wells by the facility owner or operator shall be colored black with a white circle within the black background. The diameter of the white circle shall be approximately one half the diameter of the manhole cover, or approximately four inches.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.3072 FS. History—New 12-10-90, Formerly 17-761.600, 62-761.610, 62-761.640 Amended 7-13-98, 6-21-04, _____.

62-761.610 Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.610, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

62-761.640 Performance Standards for Release Detection Methods

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.640, Amended 9-30-96, 7-13-98, 6-21-04, Repealed _____.

Substantial rewording of Rule 62-761.700, F.A.C., follows. See Florida Administrative Code for present text.

62-761.700 Repairs, Operation and Maintenance of Storage Tank Systems.

(1) Repairs.

(a) Repairs shall be performed, as necessary, if any component of a storage tank system has:

1. A release or discharge or contributed to a release or discharge of a regulated substance; or
2. An operational or structural problem that could potentially result in a release or discharge, or lead to the presence of groundwater or surface water in the interstice of a double-walled storage tank or integral piping.

(b) The storage tank system shall immediately cease operating, dispensing, and/or accepting deliveries, if:

1. Repairs are required for any component of a storage tank system; and
2. The nature of the repair activities or the condition of the component cannot be otherwise isolated from the storage tank system. The restrictions against operating the storage tank system shall not apply if the storage tank

system contains fuels used solely for the generation of electricity by an electric utility as defined in Chapter 366, F.S., where the removal of the storage tank system from use would result in the shut down of electrical generating units serviced by the storage tank system.

(c) Repairs shall be made:

1. To restore the structural integrity of the storage tank system and in a manner that will prevent releases or discharges from structural failure or corrosion for the remaining operational life of the storage tank system; and

2. In accordance with manufacturer's specifications and applicable reference requirements.

(d) If repairs are needed for any primary or secondary tank or piping system walls, or any interstitial spaces of storage tank system components, the repaired components shall be integrity tested for liquid tightness before being placed back into operation.

(2) Cathodic protection.

(a) Cathodic protection systems shall be operated and maintained to provide continuous corrosion protection to the metal components of those portions of the storage tank and integral piping in contact with the soil **or within metallic interstitial spaces using vapor corrosion inhibitor technologies.**

(Recommend adding this for a potential use of vci's. Otherwise, it would limit the use to components in contact with the soil.)

(b) Inspection and testing requirements.

1. Storage tank systems equipped with cathodic protection must be inspected, tested, and evaluated by or under the direction of a Corrosion Professional within six months of installation or repair and at least every year, or every three years for factory-installed (galvanic) cathodic protection systems, thereafter in accordance with the criteria contained in NACE International Standards SP0169-2007 and SP0285-2011, or STI R051-06 Cathodic Protection Testing Procedures for sti-P3® UST's (R051), as applicable, hereby adopted and incorporated by reference, and available at the address given. All cathodic protection systems shall either have permanent test stations for soil-to-structure potential measurements or use temporary field test stations for required testing in accordance with this subparagraph.

2. Storage tank systems with impressed current systems shall be inspected at intervals not exceeding two months. All sources of impressed current shall be inspected. Evidence of proper functioning shall be current output, normal power consumption, a signal indicating normal operation, or satisfactory electrical state of the protected structure. Impressed current systems that are inoperative for a cumulative period exceeding 1440 hours in one year shall be immediately taken out-of-service and within 30 days, and assessed by a Corrosion Professional to ensure that the storage tank system is structurally sound, free of corrosion holes, and operating in accordance with the design criteria.

(c) Records of the continuous operation of impressed current systems and all cathodic protection inspection, testing, and repair activities shall be maintained in accordance with paragraph 62-761.710(3)(c), F.A.C.

(d) Storage tank systems with cathodic protection systems that have been determined by a Corrosion Professional that the cathodic protection system cannot achieve or maintain protection levels in accordance with the design criteria shall:

1. Be repaired within 90 days in accordance with subparagraph 62-761.700(2)(b)1., F.A.C., or

2. Be closed in accordance with subsection 62-761.800(2), F.A.C.

(3) Operation and maintenance.

(a) Integrity testing.

1. The integrity of secondary containment systems and interstitial spaces shall be verified by performing an interstitial or containment integrity test in accordance with manufacturer's specifications or PEI/RP1200-12. Secondary containment systems that use vacuum, pressure, or liquid level (hydrostatic) monitoring for release detection are exempt from this requirement. The interstitial or containment integrity tests shall be performed in accordance with the following schedule:

a. Double-walled storage tanks shall be tested at the time of installation or repair;

b. The interstice of double-walled integral piping **within five years of (the effective date of the rule)**, and every five years thereafter;

c. Below-grade **piping sumps** within five years of **(the effective date of the rule)**, and every five years thereafter;

d. Below-grade dispenser sumps within five years of **(the effective date of the rule)**, and every five years thereafter;

e. Double-walled spill containment systems within **five years** of **(the effective date of the rule)** and at intervals not exceeding every 12 months thereafter;

f. Single-walled spill containment systems within one year of **(the effective date of the rule)** and at intervals

not exceeding every 12 months thereafter; and

g. Single-walled storage tanks or integral piping installed within sumps are exempt from this requirement.

2. If using hydrostatic testing for the interstitial or containment integrity test, it shall be performed by filling the secondary containment system with water to a marked level four inches above the highest penetration of the side wall of the containment equipment, with the exception of spill containment systems which shall be filled to a level within 1.5 inches of the top of the bucket. The secondary containment system shall be deemed tight if the water level remains stationary for a three hour period.

3. Any integrity test that indicates that the component is not tight shall be reported and investigated as an incident pursuant to Rule 62-761.430, F.A.C.

(b) Water removal.

1. Spill containment systems, interstitial spaces, dispenser sumps, and piping sumps shall be maintained to provide access for examination and water removal. Water in excess of one inch in depth, or any regulated substance collected in secondary containment, spill containment systems, or in piping sumps and dispenser sumps shall be removed within 72 hours of discovery and be either reused or properly disposed.

2. Petroleum Contact Water. Petroleum contact water from storage tank systems shall be managed in accordance with Chapter 62-740, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 403.091?, 489.133 FS. History--New 3-12-91, Formerly 17-761.700, Amended 9-30-96, 7-13-98, 6-21-04.

62-761.710 Recordkeeping.

(1) All records shall be dated, maintained in permanent form, and available for inspection by the Department or County. If records are not kept at the facility, they shall be made available at the facility or another agreed upon location upon five working days of receipt of the Department's request ~~notice~~. Site access to the facility shall be provided for compliance inspections conducted at reasonable times.

(2) Records of the following are required to be kept for ~~three~~ two years:

(a) ~~Measurements and reconciliations of inventory, as applicable;~~

(b) ~~Repair, operation, and maintenance records;~~

(b)(c) ~~All release detection results, including electronic test results, regardless of the frequency, and monthly visual inspections performed in accordance with paragraph 62-761.600(1)(e) 62-761.640(2)(e), F.A.C. The presence of a regulated substance's odor, sheen, or free product shall be recorded for each sampling event;~~

(c)(d) ~~All test data and results gathered during annual operability tests and integrity tests Release detection response level descriptions;~~

(d)(e) ~~A copy of all test data and results gathered during tightness tests, pressure tests, and breach of integrity tests, and the name and type of the test approved under Rule 62-761.850, F.A.C.;~~

(f) ~~Certification of Financial Responsibility on Form 62-761.900(3);~~

(g) ~~Records of the types of fuels stored per tank; and~~

(h) ~~The repair or replacement of gaskets, valve packings, valves, flanges, and connection/disconnection fittings for bulk product piping if the repair or replacement is performed in response to a discharge or loss of regulated substances.~~

(3) Records of the following, ~~generated after July 13, 1998,~~ shall be maintained until ~~for the life of the storage tank system closure~~:

(a) Manufacturer's instructions for operation, maintenance, and testing for release detection equipment ~~Results of internal inspections and non destructive testing;~~

(b) ~~Any performance claims for release detection equipment described in writing by the equipment manufacturer or installer;~~

(c) ~~Records of storage tank system installations, replacements, recertifications, and upgrades;~~

(c)(d) ~~Records of installation, maintenance, inspections, and testing of~~ corrosion and ~~cathodic protection systems in accordance with NACE and STI standards;~~

Allows for VCI technologies

(e)(f) ~~Record drawings ("as-builts") as specified in paragraph 62-761.500(1)(i), F.A.C. Site suitability determinations in accordance with subsection 62-761.640(2), F.A.C.;~~

(f)(g) A copy of all INFs, and the results of all incident investigations as specified in Rule 62-761.430, F.A.C. Vapor monitoring plans and all records kept pursuant to the plan;

(g)(h) A copy of all DRFs Closure assessment reports if the location continues as a facility; and

(h) A copy of all Closure Report Forms, if the location continues as a facility ~~Verification from a Certified~~

Contractor of the existence of a single check valve beneath the suction pump for suction piping systems.

(i) Records to demonstrate financial responsibility shall be maintained until storage tank system closure if no contamination has been reported or if no Site Rehabilitation Completion Order (SRCO) has been issued pursuant to 62-780, F.A.C.

(4) The Department strongly encourages that all records relating to financial responsibility be maintained permanently.

Rulemaking Specific Authority 376.303, 376.322(3), 403.091 FS. Law Implemented 376.303, 376.322 FS. History—New 12-10-90, Formerly 17-761.710, Amended 9-30-96, 7-13-98, Repromulgated 6-21-04, _____.

62-761.800 Out-of-Service and Closure Requirements.

(1) Out-of-service storage tank systems.

(a) General.

1. Storage tank systems that are taken out-of-service, as required in this subsection as defined in subsection 62-761.200(40), F.A.C., shall continue to be maintained in accordance with this Chapter unless otherwise noted herein.

2. Facility owners and operators of out-of-service storage tank systems shall:

a. Continue to operate and maintain corrosion protection in accordance with subsection paragraph 62-761.700(2)(4)(b), F.A.C.;

b. ~~Perform external release detection for sites without contamination, as applicable, every six months in accordance with provisions of subsection 62-761.640(2), F.A.C.;~~

c. Leave vent lines open and functioning;

d. Remove all regulated substances so that no more than one inch in depth or 0.3 percent by weight of regulated substances remains in the storage tank. Empty the system and cap or secure all lines, pumps, manways, and ancillary equipment, as applicable; and

e. Secure or close off the system to outside access.

3. Facility owners and operators of out-of-service storage tank systems shall monitor the interstice and the liquid level in the storage tank annually but not to exceed 12 months. Records of these inspections shall be maintained in accordance with subsection 62-761.710(2), F.A.C. In the event that liquid in excess of one inch, or 0.3% by weight, in the storage tank or any liquid, other than condensate, in the interstice is discovered, facility owners and operators must follow the procedures for incidents pursuant to Rule 62-761.430, F.A.C. If the storage tank system is required to be upgraded during the time that it is out of service, it shall be upgraded or replaced in accordance with this chapter before it is returned to service.

4. Release detection device annual operability testing, containment and interstitial integrity testing, and annual overfill protection device testing are not required while the system is properly out-of-service. All afore-mentioned testing shall be up-to-date in accordance with this Chapter and indicate proper operation before adding regulated substances to the storage tank system. In addition, storage tank systems installed after (the effective date of the rule) that have been out-of-service for more than 730 days shall perform interstitial integrity testing of the storage tank and integral piping before adding regulated substances to the storage tank system. Systems with secondary containment installed and operated in accordance with this chapter may remain in a continuous out-of-service status for ten years. After this period, the system shall be returned to service or closed in accordance with subsection 62-761.800(2), F.A.C.

5. Storage tank systems with secondary containment shall only be designated as out-of-service for a maximum of ten continuous years. Upon expiration of this time period, the storage tank system must be closed in accordance with subsection 62-761.800(2), F.A.C. Tightness, pressure, or other tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., as applicable, on any systems being returned to service.

(b) ~~Before being returned to service, the following tests shall be performed in accordance with subsection 62-761.640(3), F.A.C., for systems that are taken out of service for more than 180 days:~~

1. ~~A tightness test for single-walled systems; or~~

2. ~~A breach of integrity test for double-walled Category C systems.~~

(c) ~~Single-walled systems that are taken out of service shall not be kept out of service longer than two years for corrosion-protected systems or one year for unprotected bare steel systems. After the end of these time periods, the systems shall either be upgraded or permanently closed.~~

(2) Closure of storage tank systems.

(a) The following storage tank systems must be closed within 90 days in accordance with the provisions of this subsection: General.

1. A storage tank system ~~that fails to meet or is not modified to meet the~~ Storage Tank System requirements of Rule 62-761.500, F.A.C. Closure of storage tank systems shall be performed by:

a. ~~Removing all liquids and accumulated sludges;~~

b. ~~Disconnecting and capping, or removing, all integral piping. Manways shall be secured to prevent access;~~

c. ~~Closing the storage tank system in accordance with paragraphs 62-761.800(2)(b), F.A.C., as applicable; and~~

d. ~~Conducting a closure assessment in accordance with subsection 62-761.800(3), F.A.C.~~

2. A storage tank system that requires repair pursuant to Rule 62-761.700, F.A.C., but cannot be repaired to operate in accordance with the requirements of this Chapter shall be taken out-of-service. If it cannot be repaired within 365 days after being taken out-of-service, it shall be permanently closed. ~~After closure, storage tank systems may be used to store materials or substances other than regulated substances in accordance with all applicable Department reference standards, (for example, API 1604). Owners and operators are advised that other federal, state, or local requirements may apply to these activities.~~

3. ~~Monitoring wells associated with closed systems that are not being used for release detection or site assessment purposes shall be closed in accordance with paragraph 62-761.600(1)(k), F.A.C.~~

(b) Closure of storage tank systems shall be performed by: ~~Unmaintained systems shall be permanently closed within 90 days of discovery.~~

1. Conducting a Closure Integrity Evaluation as defined in subsection 62-761.200(8), F.A.C., and completing the UST Closure and Investigation Report Form 62-761.900(7), hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>, in accordance with subsection 62-761.800(3), F.A.C.

2. Removing by a Certified Contractor or disconnecting and capping all integral piping;

3. Removing and disposing of a storage tank by a Certified Contractor, or in-place closure by filling the storage tank with a solid inert material of sufficient density to prevent a structural collapse of the closed storage tank, which shall be in accordance with the following documents hereby adopted and incorporated by reference, and available from the addresses given. Closure of Underground Petroleum Storage Tanks, API Recommended Practice 1604, 3rd Edition, March 1996, American Petroleum Institute, Published by API Publications and Distribution, 1220 L Street, N.W. Washington, D.C. 20005-4070, and Temporarily Out of Service, Closure in Place, or Closure by Removal of Underground Storage Tanks, NFPA 30 (Annex C). In lieu of in-place closure or removal, a storage tank may be used to store liquids other than regulated substances in accordance with API RP 1604. Owners and operators are advised that other federal, state, or local requirements apply that regulate these activities; and

4. Properly closing monitoring wells associated with closed systems that are not being used for site assessment purposes;

(c) The removal and disposal of all liquids and accumulated sludges may be required according to other local, state, and federal requirements. ~~System removal, closure in place, and disposal shall be performed:~~

1. ~~In accordance with API RP 1604 and NFPA 30; and~~

~~By a Certified Contractor if the system is removed from the ground, unless it is closed in place by filling it with a solid inert material of sufficient density to prevent a structural collapse of the closed system.~~

(3) Closure Integrity Evaluation and Closure Report Form Requirements ~~Closure assessment of storage tank systems.~~

(a) Closure Integrity Evaluation. ~~At time of closure, replacement, installation of secondary containment, or change in service from a regulated substance to a non-regulated substance, an assessment shall be performed to determine if a discharge from the system or system components has occurred.~~

1. A Closure Integrity Evaluation as defined in subsection 62-761.200(8), F.A.C., must be performed no more than 45 days prior to closure, replacement, or change in service from a regulated substance to a non-regulated substance for all double-walled storage tanks, double-walled integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil. If a Site Rehabilitation Completion Order (SRCO) or a Monitoring Only Plan (MOP) Approval Order has been issued by the Department for a contaminated area of a site, a closure assessment shall be performed for any subsequent storage tank system removal, replacement, or installation of secondary containment.

2. A Closure Integrity Evaluation requires a visual assessment of the interstitial space of double-walled tanks, integral piping, piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil to determine if there are any products or pollutants or any water other than condensate present within the interstice. Other methods approved by the manufacturer or the Department such as vacuum, pressure, or inert gases

may be used instead of visual observations. ~~Tanks, pipes, or other system components in contact with soil at any site are subject to closure assessment requirements.~~

3. A Closure Integrity Evaluation for single-walled piping sumps, dispenser sumps, and spill containment systems that are in contact with the soil requires a hydrostatic test or another test approved by the manufacturer.

4. A failed Closure Integrity Evaluation requires the reporting of the failed evaluation as an incident in accordance with subsection 62-761.405(3), F.A.C., and the investigation of the incident in accordance with subsection 62-761.430, F.A.C. If soil and/or groundwater sampling is necessary to determine whether a discharge has occurred, then an investigation shall be conducted in accordance with Form 62-761.900(7), UST Closure and Investigation Report Form.

5. The County must be provided with a copy of the Closure Integrity Evaluation report as part of the notification process pursuant to subsection 62-761.405(2), F.A.C. At a minimum, the Closure Integrity Evaluation report shall include the name of the third party inspection or testing company conducting the evaluation, a description of the storage tank system or system components that are being closed, the date of the evaluation(s) conducted, a description of the evaluation conducted along with the results, and a conclusion based on the results as to whether an incident has occurred.

6. In lieu of conducting a Closure Integrity Evaluation, the owner or operator may conduct a site assessment in accordance with 62-780.600, F.A.C. The owner or operator who fails to conduct a Closure Integrity Evaluation before the storage tank system or system component has been removed or closed in-place, shall conduct a site assessment in accordance with 62-780.600, F.A.C.

(b) Underground Storage Tank Closure and Investigation Report Form. A Closure Report Form is always required for storage tanks, integral piping, piping sumps, dispenser sumps, and spill containment systems, shall be completed at the time of closure, replacement, or change in service from a regulated substance to a non-regulated substance, and shall be submitted in writing or electronic format to the County within 60 days of completion of the closure, replacement, or change in service from a regulated substance to a non-regulated substance. A closure assessment is not required for:

1. Sites with documented contamination requiring a site assessment in accordance with Chapter 62-770, F.A.C., including those that are eligible for the Early Detection Incentive Program (EDI), the Florida Petroleum Liability and Restoration Insurance Program (FPLRIP), and the Petroleum Cleanup Participation Program (PCPP), pursuant to Sections 376.3071 and 376.3072, F.S. Nevertheless, documentation of procedures followed and results obtained during closure shall be reported in a Limited Closure Summary Report, Form 62-761.900(8), and in accordance with Section A of DEP's "Storage Tank System Closure Assessment Requirements";

2. Systems initially installed with secondary containment, provided that no unexplained positive response of an interstitial release detection device or method occurred during the operational life of the system, or the secondary containment passed a breach of integrity test prior to closure; and

3. Systems upgraded with secondary containment that have closed interstitial spaces, where a closure assessment was performed prior to installation of secondary containment, provided that the secondary containment passed a breach of integrity test in accordance with paragraph 62-761.640(3)(a), F.A.C.;

(c) Closure assessment sampling and analysis shall be conducted according to DEP's "Storage Tank System Closure Assessment Requirements."

(d) A closure assessment report shall be submitted to the County within 60 days of completion of any of the activities listed in paragraph 62-761.800(3)(a), F.A.C. The report shall include sample types, sample locations and measurement methods, a site map, methods of maintaining quality assurance and quality control, and any analytical results obtained during the assessment in accordance with DEP's "Storage Tank System Closure Assessment Requirements."

(e) Persons are advised that contaminated soil excavated, disposed of, or stockpiled on site during the closure of a storage tank system is regulated by Chapter 62-770, F.A.C.

(4) Facilities closing single-walled storage tanks and/or piping, or tanks and/or piping that are in contact with the soil shall conduct a site assessment in accordance with Rule 62-780.600, F.A.C.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303, 376.30716 FS. History--New 12-10-90, Formerly 17-761.800, Amended 9-30-96, 7-13-98, 6-21-04,_____.

62-761.820 Incident and Discharge Response.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.820, Amended 9-30-96, 7-13-98, 6-21-04, Repealed.

62-761.850 Alternative Procedures Requirements and Equipment Registration Approvals.

(1) Alternative procedure requirements.

(a) Any person subject to the provisions of this Chapter may request in writing a determination by the Secretary or the Secretary's designee that any requirement of this Chapter shall not apply to a regulated storage tank system at a facility, and shall request approval of alternative ~~alternate~~ procedures or requirements.

(b) On Form 62-761.900(4), Alternative Requirement or Procedure Form, effective date, *(the effective date of the rule)*, hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>, the request shall set forth at a minimum the following information:

1. The specific storage tank system or facility for which an exception is sought;
 2. The specific provisions of this Chapter 62-761, F.A.C., from which an exception is sought;
 3. The basis for the exception;
 4. The alternative procedure or requirement for which approval is sought;
 5. Documentation that demonstrates that the alternative procedure or requirement provides an equivalent or greater degree of protection for the lands, surface waters or groundwaters of the State as the specific provisions of this Chapter from which an alternative procedure is sought ~~established requirement~~; and
 6. Documentation that demonstrates that the alternative procedure or requirement is at least as effective as the established procedure or requirement.
7. If an alternative ~~alternate~~ procedure or requirement is not able to be sought under subparagraph 5. or 6., then documentation that demonstrates that the specific provisions of this Chapter from which the exception is sought imposes regulatory costs on the regulated entity that could be reduced through approval of a less costly regulatory alternative or requirement that provides a substantially equivalent degree of protection for the lands, surface waters, or groundwaters of the State as the established requirement.

(c) The Department shall issue an Order within 90 days of the receipt of a completed Alternative Requirement or Procedure Form, either: Within 60 days of the receipt of a request for approval of an alternative procedure or requirement, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(1), F.A.C., are met.

1. Approving the request with any conditions necessary to meet the requirements of paragraph 62-761.850(1)(b), F.A.C.; or
2. Denying the request and stating the reason(s) the request does not make an adequate demonstration that the requirements of paragraph 62-761.850(1)(b), F.A.C., have been met.

(d) The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S. The Department's failure to timely issue an Order does not grant or approve the request. The Secretary or the Secretary's designee shall specify by order each alternative procedure or requirement approved for an individual storage tank system or facility in accordance with this rule or shall issue an order denying the request for such approval.

(e) The provisions of this Rule do not preclude the use of any other applicable relief provisions.

(2) Registration of storage tank system equipment and release detection systems and methods ~~Equipment~~ approvals.

(a) Owners and operators shall verify at the time of installation that the storage tank system equipment and release detection systems and methods (including equipment and methods that were previously approved by the Department under the former Equipment Approval process) have been registered with the Department. ~~Storage tank system equipment used in the State of Florida must have the approval of the Department before installation or use, with the exception of:~~

(b) Any storage tank system equipment installed after *(the effective date of the rule)* must be registered with the Department in accordance with this section. Upon discovery, non-registered storage system equipment installed after *(the effective date of the rule)* must be removed within 90 days, unless registration is obtained and listed within the 90 day time period.

(c) Equipment previously approved by the Department under the former Equipment Approval process and installed prior to (the effective date of the rule) can continue to be used regardless of later non-renewal or removal of registration from the list of registered storage tank system equipment, provided the equipment is still operating as designed.

(d) Only the storage tank system equipment as stated in this Chapter shall be registered by the equipment manufacturer using Form 62-761.900(3) Storage Tank System Equipment Registration Form, effective date, (the effective date of the rule), hereby adopted and incorporated by reference and available from the Department of Environmental Protection, Division of Waste Management, MS 4500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or www.flrules.org/Gateway/reference.asp?No=Ref-000### or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>. The following storage tank system equipment is exempt from registration:

1. Dispensers, dispenser islands, nozzles, and hoses;
2. ~~Monitoring well bailers;~~
3. Manhole and fillbox covers;
4. ~~Valves and ball float valves;~~
5. Cathodic protection test stations;
6. ~~Metallic bulk product piping;~~
7. Small diameter integral piping not in contact with soil, unless the integral piping extends over or into surface waters; ~~and~~
8. ~~Vent lines; and~~
9. Gauges used for vacuum monitoring.

~~(e)(b)~~ Registration ~~Equipment approval~~ requests shall be submitted to the Department in writing or electronic format with a demonstration that the equipment will ~~provide equivalent protection or~~ meet the appropriate performance requirements ~~standards~~ contained in this Chapter. Any approvals or denials received from other states or countries shall be included in the registration approval request to the Department.

~~(f)(e)~~ A third-party demonstration by a Nationally Recognized Testing Laboratory shall be submitted in writing or electronic format to the Department with the application. The third-party demonstration shall provide:

1. A technical evaluation of the equipment;
2. Test results that verify that the equipment will function as designed; ~~and~~
3. A professional certification or determination that the equipment meets the performance requirements ~~standards~~ contained in this Chapter; Rule 62-761.500, F.A.C.
4. Integrity test requirements and procedures;
5. Annual operability testing procedure for the equipment or release detection system or method; and
6. Copies of the manufacturer's instructions to maintain the manufacturer's warranty.

~~(g)(d)~~ Release detection methods and tank and piping tightness and pressure testing methods must be registered in accordance with this subsection prior to being used. Within 60 days of the receipt of a request for an equipment approval, the Department shall approve the request or notify the responsible party in writing that the request does not demonstrate that the requirements of subsection 62-761.850(2), F.A.C., are met.

~~(h)(e)~~ The storage tank system equipment and release detection systems and methods registered with the Department under this subsection must be renewed every five years. Failure to renew will result in removal from the equipment registration list. Any changes, improvements, or modifications to equipment beyond the scope of the original demonstration by the Nationally Recognized Testing Laboratory will require a renewal of the registration and a new demonstration from a Nationally Recognized Testing Laboratory pursuant to paragraph 62-761.850(2)(f), F.A.C. The Secretary or the Secretary's designee shall specify by order each equipment approval that is approved in accordance with this rule or shall issue an order denying the request for such approval. The Department's order shall be agency action, reviewable in accordance with Sections 120.569 and 120.57, F.S.

(i) The Department shall place conditions upon the use of the storage tank system equipment and release detection systems and methods, remove equipment or methods from the list of registered storage tank system equipment, or not renew registration based on information submitted to the Department or if the equipment does not perform in field application as certified in the third party certification by a Nationally Recognized Testing Laboratory.

(3) Registration of Operator Training Providers

(a) Owners and Operators must verify that providers of training required under 62-761.350 F.A.C. (including training which was previously approved by the Department under the former approval process) have been registered with the Department.

(b) Training previously approved by the Department prior to can continue to be used until one year after the (the

effective date of the rule).

(c) Registration of vendor's requests shall be submitted to the Department in writing or electronic format with a demonstration that meets the appropriate training contained in this Chapter. Any approvals or denials received from other states or countries shall be included in the registration request to the Department.

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.850, Amended 9-30-96, 7-13-98, 6-21-04, _____.

62-761.900 Storage Tank Forms.

The forms used by the Department in the Storage Tank System Program are adopted and incorporated by reference in this section. The forms are listed by form rule number, ~~which is also the form number, and with the~~ subject title, and effective date. Copies of forms are available ~~may be obtained~~ by writing to the Administrator, Storage Tank Regulation Section, Florida Department of Environmental Protection, Division of Waste Management, 2600 Blair Stone Road, M.S. ~~4500~~ 4525, Tallahassee, Florida 32399-2400, or: www.flrules.org/Gateway/reference.asp?No=Ref-000###, or <http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>.

(1) Form 62-761.900(1) Discharge Report Form, *(the effective date of the rule)* July 13, 1998.

(2) Form 62-761.900(2) Storage Tank Facility Registration Form, *(the effective date of the rule)* July 13, 1998.

(3) Form 62-761.900(3) Storage Tank System Equipment Registration Form, *(the effective date of the rule)* Certification of Financial Responsibility, July 13, 1998.

(4) Form 62-761.900(4) Alternative Requirement or Procedure Form, *(the effective date of the rule)* July 13, 1998.

(5) Form 62-761.900(5) Underground Storage Tank Installation and Removal Form for Certified Contractors, *(the effective date of the rule)* July 13, 1998.

(6) Form 62-761.900(6) Incident Notification Form, *(the effective date of the rule)* July 13, 1998.

(7) Form 62-761.900(7) Underground Storage Tank Closure and Investigation Report Form, *(the effective date of the rule)*. Monthly Statistical Inventory Reconciliation (SIR) Report, July 13, 1998.

(8) ~~Limited Closure Summary Report Form, July 13, 1998.~~

Rulemaking Specific Authority 376.303 FS. Law Implemented 376.303 FS. History—New 12-10-90, Formerly 17-761.900, Amended 9-30-96, 7-13-98, ~~Repromulgated~~ 6-21-04, _____.



7-Eleven, Inc.

April 1, 2016

Mr. William E Burns, Jr
Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: 7-Eleven Comment for Chapter 62-761 DRAFT dated March 2016

Dear Mr. Burns:

On behalf of 7-Eleven, Incorporated I would like to submit a comment regarding testing of
"Double-walled Spill Containment Systems.

Please contact me if you have any questions.

Respectfully,

A handwritten signature in blue ink that reads "Cathy Wise". The signature is written in a cursive style with a large, stylized 'C' and 'W'.

Cathy Wise
Region Environmental Compliance Manager
7-Eleven Fuels Services, Inc.
Environmental Compliance Dept #0148
P.O. Box 711
Dallas, TX 75221

Chapter 62-761.700(3)(a)1.d.

Double-walled spill containment systems that are being operated and maintained as double-walled spill containment systems, shall be tested by October 13, 2018, and every 3 years thereafter:

7-Eleven's Comment: Add to the regulation. Double-walled spill containment systems continuously monitored by a sensor are exempt from this regulation.

Reasons for the Comment: Everyone can agree that the double-walled spill containment system equipped with a secondary sensor is by far the most environmentally protective. Annual sensor operability testing is all that should be required.

During the workshop held on 3/28/2016, Bill Burn stated that double-walled spill containment systems equipped with sensors are exempt from the 3 year breach of integrity testing requirement yet I do not see this stated anywhere in the proposed regulation.



7-Eleven, Inc.

April 7, 2016

Mr. William E Burns, Jr
Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: 7-Eleven Comment for Chapter 62-761 DRAFT dated March 2016

Dear Mr. Burns:

On behalf of 7-Eleven, Incorporated I would like to submit another comment regarding secondary containment test procedure.

Please contact me if you have any questions.

Respectfully,

A handwritten signature in blue ink that reads 'Cathy Wise'.

Cathy Wise
Region Environmental Compliance Manager
7-Eleven Fuels Services, Inc.
Environmental Compliance Dept #0148
P.O. Box 711
Dallas, TX 75221

Chapter 62-761.700(3)(a)2.

If using hydrostatic testing for containment integrity test, it shall be performed by filling the secondary containment system with water to a marked level 4 inches above the highest penetration of the side wall of the containment equipment, with the exception of spill containment systems which shall be filled to a level within 1.5 inches of the top of the bucket. The secondary containment system shall be deemed tight if the water level remains stationary for a 3 hour period.

7-Eleven's Comment: I recommend the 3 hour test period with stationary water level be changed to a 1 hour lake test with 1/8" water level change which is recommended by PEI or the accelerated test utilizing electronic equipment with manufacturer's recommended pass/fail criteria.

Reason: The 1 hour lake and accelerated tests are accurate, cost effective test measures and recommended by PEI. 40CFR, Part 280 does not state test parameters. The 3 hour test parameter was based on old manufacturer's recommendations. Testers have relayed for years that within the first hour, the tests either pass or fail.

Below is a message from Brian Derge from Tanknology supporting my position.

From: Brian Derge [mailto:bderge@tanknology.com]
Sent: Thursday, April 07, 2016 10:50 AM
To: Wise, Cathy; Eddie Campbell
Cc: Maurice Pezone; Allen Porter; Fulenchek, Ron
Subject: Re: Testing Standards

Here is the test verbiage from PEI RP 1200. I would suggest both the 1 hr lake test recommended by PEI or the accelerated test, utilizing electronic equipment, such as Tanknology's VPLT sump testing unit, that can perform a shorter test with a corresponding more precise leak rate.

6.5.6 Test Procedure.

1. Begin the test by adding water to the sump to a minimum of 4 inches above the highest sump penetration or sump sidewall seam, whichever is higher. To compensate for sump deflection, the water must be allowed to settle a minimum of 15 minutes before taking the initial test measurement. If the highest sump penetration or sump sidewall seam is less than 4 inches from the top of the sump, add water to within 1 inch of the top of the sump.

2. Place the measuring stick vertically at the lowest point in the sump and extending above the water level in the sump to allow for an accurate measurement to be taken. The location of the measuring stick must remain the same for each

water level measurement. Document the initial water level measurement as measured from the bottom of the sump. Alternative measurement methods may be used provided that the measurement to 1/16 (0.063) inch can be made.

4. After 1 hour, document the ending water level measurement.

6.5.7 Pass/Fail Criteria. If the water level changes less than 1/8 (0.125) inch, the containment sump passes the integrity test.

If the water level changes 1/8 (0.125) inch or greater, the containment sump fails the integrity test.

6.6 Accelerated Precision Hydrostatic Test for Spill Buckets and Containment Sumps. Electronic precision test equipment can be utilized to test spill buckets and containment sumps. It incorporates more sensitive equipment that permits a test to be conducted in a shorter period of time. The procedures use the same test fluid and tests the same volume as other methods outlined in this chapter. The manufacturer of the measurement equipment should specify the precision and duration of the test and the pass/fail criteria. However, pass/fail criteria should not be less stringent than those prescribed for the 1-hour test in Section 6.5.7.

Brian Derge | COO – Inspection Services

T: 337-857-5583 | C: 512-415-0751

F: 866-212-9323 | bderge@tanknology.com

11000 N. Mopac Expressway, Suite 500

Austin, TX 78759

www.tanknology.com



April 11, 2016

Mr. Bill Burns
Environmental Administrator
Compliance Assistance
Division of Waste Management
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400
Via E-Mail: bill.burns@dep.state.fl.us

Re: Chapter 62-761
Chapter 62-762
Proposed Rule 62-761.420 Financial Responsibility
March 28, 2016 Public Workshop

Dear Mr. Burns:

As a follow-up to the comments we provided at the above-referenced Public Workshop, we are providing these additional comments regarding the proposed rules.

Rule 62-761.500(4) – Spill Buckets

Spill buckets---The Department does not require double-walled spill buckets. However, the Department will not allow a double-walled spill bucket to be used as a single-wall spill bucket. This seems arbitrary. Presumably, the Department's rationale is that the equipment registration does not contemplate that the double-walled spill bucket be used as single-walled. Logically, a manufacturer does not contemplate that its double-walled spill bucket will be used without utilizing the interstitial monitoring component. After all, the interstitial monitoring component is the central feature for marketing the double-walled spill bucket. But if both walls of the spill bucket meet construction and compatibility requirements, there is no technical reason for not allowing the spill bucket to operate as a single-walled spill bucket. The Department may suggest that this issue be handled as an Alternate Procedure. This is not satisfactory, largely because the Alternate Procedure requirement requires substantially the same measure of protection as the rule that would be varied from. The "newly" single-walled spill bucket would provide the same protection as

CATHERINE B. CHAPMAN^o
ROBERT D. FINGAR^{***}
AMANDA W. GAY
THOMAS J. GUILDAY
GEORGE W. HATCH, III^{*}
FRANCES C. LOWE^o
TRUDY E. INNES RICHARDSON[^]
CARRIE MENDRICK ROANE
JAKEN E. ROANE
MARY K. SIMPSON^{**}
JENNIFER A. SULLIVAN
COLE G. WEST
MICHAEL D. WEST

OF COUNSEL
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* BOARD CERTIFIED CONSTRUCTION LAWYER
** BOARD CERTIFIED CIVIL TRIAL LAWYER
*** CERTIFIED CIRCUIT CIVIL &
APPELLATE MEDIATOR
^ CERTIFIED FAMILY LAW MEDIATOR
o ALSO ADMITTED IN GA

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Environmental Administrator
Compliance Assistance
Division of Waste Management
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the rule for single-walled spill-buckets. If the Department viewed the Alternate Procedure request in that fashion, there may not be an issue (although this illustrates why the rule should be written as we propose it). However, if the standard is that the single-walled spill bucket provide the same measure of protection as a double-walled spill bucket, the Alternate Procedure request is likely to (unfairly) fail.

Rule 62-761.400(7) – Delivery Prohibition

The rule uses the term “valid registration placard.” As we have commented previously, the supplier needs to be able to rely on a posted registration placard. If the posted placard for the facility is current, it is a “valid” registration placard.

Rule 62-761.600(1)(i) – Standby Generators

Please ensure that the rule includes adequate opportunity to meet newly-imposed requirements for standby generators (aside from the October 13, 2018 deadline for release detection). Also, has the Department determined whether storage tank insurance is readily available for owners of these systems who may not be able to meet self-insurance requirements? Does the Department have plans to notify owners in advance of such requirements as part of a public information effort?

Rule 62-761.710 – Records of Alarm History

We suggest that the Department highlight the requirement to maintain alarm history records as part of its efforts to educate system owners and operators about this requirement.

Rule 62-761.850 – Equipment Registration

It is unclear what a “registration” is for purposes of Chapter 120, Florida Statutes. If an equipment registration may be revoked, for example, if the Department receives sufficient evidence that the equipment is not performing, then we would be comfortable that the administrative process would apply. However, if a vendor who supplies defective, but registered, equipment or misuses registered procedures faces only the prospect of non-renewal of registration in the next cycle, we do not believe that process provides adequate protection.

Tank Inspections

It may be difficult, particularly for multi-facility marketers who cover a broad geographic range to have a knowledgeable representative available without logistical planning. While

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operator training suggests that on-site personnel will have some knowledge of operations, it is unclear whether this would be sufficient knowledge to handle an inspection. We request that the Department recognize this and incorporate this planning into the inspection process.

Financial Responsibility

Financial Responsibility for Out-of-Service Tanks

Technically, the federal regulations require owners or operators of out-of-service systems to maintain financial responsibility. 40 CFR § 280.113. However, insurance, which is the most common form of financial responsibility in Florida, and may be the only available form, may not be available for out-of-service systems. The Department has the ability to request that EPA suspend enforcement of financial responsibility if it is not readily available. See 42 USC § 6991b(d)(5)(D) and 40 CFR § 280.116. Alternatively, the Department can work with the Office of Insurance Regulation, or otherwise provide in its rules, for a prohibition on cancellation of coverage for placing a system out-of-service, as long as coverage otherwise remains in effect by that insurer for that insured.

Closure and Site Check

The Closure Assessment is proposed to incorporate the term “site check.” The term “site check” is found in 40 CFR § 280.52, and generally means an investigation (soil and groundwater assessment) to determine whether a discharge has occurred. There are no specific directions as to how a site check should be performed, thereby leaving much to the judgment of the professional. This regulation deals with a suspected release during the operational period of the system.

In terms of what we think of as a Closure Assessment, the parallel federal regulation is 40 CFR § 280.72. This requires, at closure, the same type of investigation contemplated by the site check regulation of 40 CFR § 280.52. The language of the two regulations is virtually identical, except that the term “site check” is not used in 40 CFR § 280.72.

We are familiar with storage tank insurance policies that use a “site check” as one of the means by which an insured may demonstrate that a discharge has occurred. Our concern is that the Department’s Closure Guidelines sets forth some specific requirements as to the assessment that may be required to constitute a “site check” upon closure. An insurance

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company may therefore argue that assessment during the operational life of a system of a suspected release that relies on the judgment of the professional as to where to sample (or not), rather than on the assessment requirements imposed by the Closure Guidelines, would not be a valid “site check.” Therefore we strongly recommend that the Department adopt the federal approach and restrict the use of the term “site check” to an assessment during the operational life of a system and continue to use the term “closure assessment” when related to the Closure Guidelines. The rule and the forms and guidance documents should be amended accordingly.

Proposed Rule 62-761.420(2) Financial Responsibility Release from Requirements

This proposed rule is meant to parallel 40 CFR § 280.113 to establish when a policy may be terminated with respect to a tank or tanks. We suggest that subsection (2) end at the word Department and that the remainder of (2), (2)(a) and (b) (up to “To obtain copies...”) be struck. The rationale is that once a closure is complete and approved, the insured (or the Department) will generally have six months after the policy terminates for that tank(s) under the federal Six-Month Extended Reporting Period to file a claim. The insurance need not be in place for this claim to proceed. The claim is based on the coverage that was in effect while the tank(s) were in operation. Therefore, there is no need to have a post-closure financial responsibility requirement.

Proposed Rule 62-761.420(4) Financial Responsibility Records

The proposed rule states that financial responsibility records must be maintained at the facility or the owner’s (“their”) place of business. Typically, the insured is the tank owner or operator, not necessarily the property owner. The option should be added for the “insured’s place of business.”

Proposed Rule 62-761.420(7) Choice of Law and Venue

We fully support the Department’s prohibition against non-Florida venue and choice of law provisions. Such provisions are typically used by insurers to enforce highly restrictive reporting obligations and to avoid the potential for an award of attorneys’ fees when coverage is wrongfully denied. We note that on two occasions, involving Zurich and Mid-Continent, the Office of Insurance Regulation prohibited non-Florida clauses. Unfortunately, the Office of Insurance Regulation has not been consistent in this approach. Also, the Office of Insurance Regulation does not review policy forms for surplus lines policies. At the very least, the Department should notify the Office of Insurance Regulation

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of this rule so that non-Florida venue and choice of law provisions in storage tank policies are not approved in policies which the Office of Insurance Regulation reviews. This would eliminate any conflict between the rule and an approval by the Office of Insurance Regulation.

Thank you again for your efforts in these rulemaking proceedings. If you have any questions or need additional information, please contact me.

Sincerely,



Robert D. Fingar

cc: Kimberley Curran (Kimberley.curran@dep.state.fl.us)

From: [Bob Fingar](#)
To: [Hewitt, Betsy](#)
Cc: [Burns, Bill](#); [Curran, Kimberley](#)
Subject: RE: 62-761, FAC
Date: Monday, May 16, 2016 4:04:41 PM

Dear Betsy:

Thank you for providing this. With respect to the release from FR requirements, I think that your proposed language (subsection (2)), given 40 CFR 280.113, is probably the best we can do.

In subsection (3), you still have the language "shall be made by the facility owner." I note that this conflicts with the federal law, since the facility owner is not required to demonstrate FR. Under the federal law, it's the tank owner or operator. I also note that this language conflicts with subsection (2), which recognizes that different people may have secured the FR. I understand holding the facility owner responsible, as that what the Florida Statute says (although that statute predates the federal FR requirement), so I think the best way around this is to allow the person with the FR or the facility owner to demonstrate FR, but still hold the facility owner responsible.

On the out of service issue, I still think the Department needs to establish that insurance is available for out of service systems. If it is not, the suspension of enforcement that I previously referenced ought to be considered. I am not sure how the rule "should resolve concerns over insurance companies that cancel policies for tanks that are taken out of service." The rule requires that the insured replace coverage within 90 days of cancellation. It does not appear to do anything to prevent cancellation. In fact, I am not sure why the Department should just not say that a policy can't be cancelled if the tank is lawfully out of service. That would certainly resolve the concern.

Please let me know your thoughts. Thanks.

Bob

Robert D. Fingar

Shareholder

Guilday, Schwartz, Simpson, West, Hatch & Lowe, P.A.

Direct: 850.701.4362 Fax: 850.222.2593

From: Hewitt, Betsy [mailto:Betsy.Hewitt@dep.state.fl.us]
Sent: Tuesday, May 03, 2016 11:58 AM
To: Bob Fingar <Bob@guildaylaw.com>
Cc: Burns, Bill <Bill.Burns@dep.state.fl.us>; Curran, Kimberley <Kimberley.Curran@dep.state.fl.us>
Subject: 62-761, FAC

Dear Bob – Attached is a revision to 62-761.420, Financial Responsibility. Upon further discussion internally, we have recommended, under paragraph (2), that the responsibility to maintain FR should exist until closure. In addition, we have updated the language in subsections 62-761.800(1) and (2), F.A.C., also attached, to provide that FR must be maintained and demonstrated during out-of-service status; and where FR cannot be maintained and demonstrated, then the tanks must be closed within 90 days. This proposed language should

render Florida's requirement for FR consistent with federal requirements, and should resolve concerns with insurance companies that cancel policies for tanks that are taken out of service; an occurrence that we encounter with some frequency.

We would appreciate your comments on this proposal within 2 weeks; this rulemaking has been ongoing for some time now and the Department would like to keep things moving forward. To this end, if you wish to discuss the language, we will of course be happy to do so. Thanks. bh

Yes No

19. Have financial statements for the latest fiscal year been filed with the SEC, the Energy Information Administration, or the Rural Utilities Service?

[If "No", please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines 4-18 above and the financial statements for the latest fiscal year.]

[For both Alternative I and Alternative II complete the certification with this statement.]

Certification

The person whose signature appears below hereby certifies that the wording of this instrument is identical to the wording as adopted and incorporated by reference in subsection(s) 62-761.420(4) and/or 62-762.421(4), F.A.C.

[Insert a line for the date]

[Signature of Chief Financial Officer]

[Name and Title]

[Signature of Witness or Notary]

[Printed Name of Witness or include Notary Seal]

[Date of Witness or Notary]

[CFO Office Contact: Name and Title]

[Phone Number]

[Email Address]

Owner / Operator Storage Tank Program Contact