



Florida Department of Environmental Protection

Changes to Chapter 62-761, Florida Administrative Code Underground Storage Tank Systems (USTs)

Effective – 1/11/2017





Rule Organization

- The rule sections are reorganized a bit with separate sections now for:
 - Registration
 - Notification
 - Financial responsibility
 - Incidents
 - Discharges
- The concept of Category A, B and C USTs has been removed since all USTs must have met upgrade requirements by December 31, 2009.



Intent

The facility shall provide a representative to access storage tank system components for inspection purposes and to demonstrate operational functionality of electronic equipment.





Definitions

Terms that are defined in the Florida Statutes, such as “Discharge”, “Facility”, “Petroleum”, and “Owner” will no longer be defined in the rule.

There are 21 new definitions and 34 definitions have been removed (including 12 statutory definitions).



Definitions

- “Class A, B, & C operators” have now been defined due to the addition of the Operator Training & Certification requirements to the rule.
- “Certified Contractor” is required only if backfill is disturbed.
- “Closure Integrity Evaluation” is the assessment by a 3rd party of the integrity of a component in contact with the soil that is being closed.
- “In-service” and “Out-of-service” definitions have been revised in an attempt to simplify things. A UST is in-service until registered as out-of-service. And, there is no longer a definition of “Unmaintained”.



Definitions

- “Integrity test” is a determination of the liquid tightness of a component:
 - “Interstitial integrity test” is used to determine if double-walled component is tight.
 - “Primary integrity test” is used to determine if the primary wall of the component is tight. This concept replaces former “tightness test” concept.
 - “Containment integrity test” is used to determine if single-walled component (sump or spill containment) is tight.



Reference Guidelines

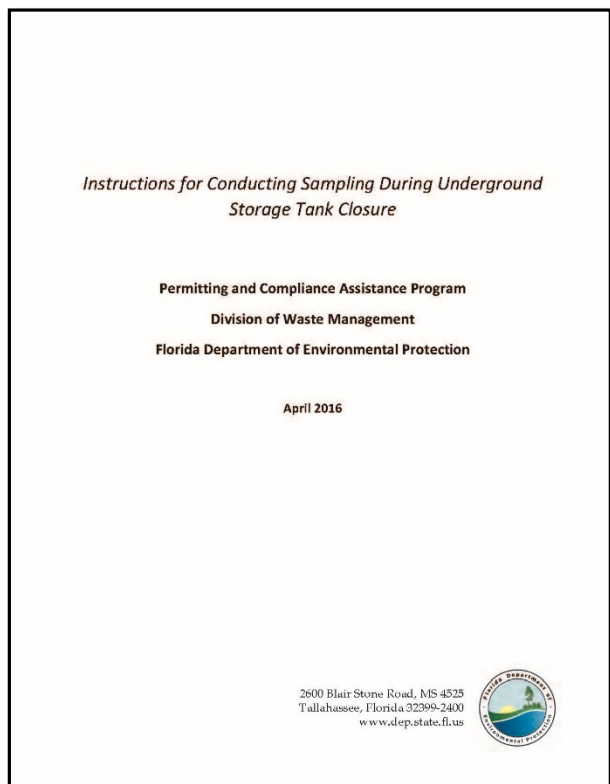
The rule update allowed the Department to update such reference guidelines as from the American Petroleum Institute (API), Petroleum Equipment Institute (PEI) and the National Fire Protection Agency (NFPA).



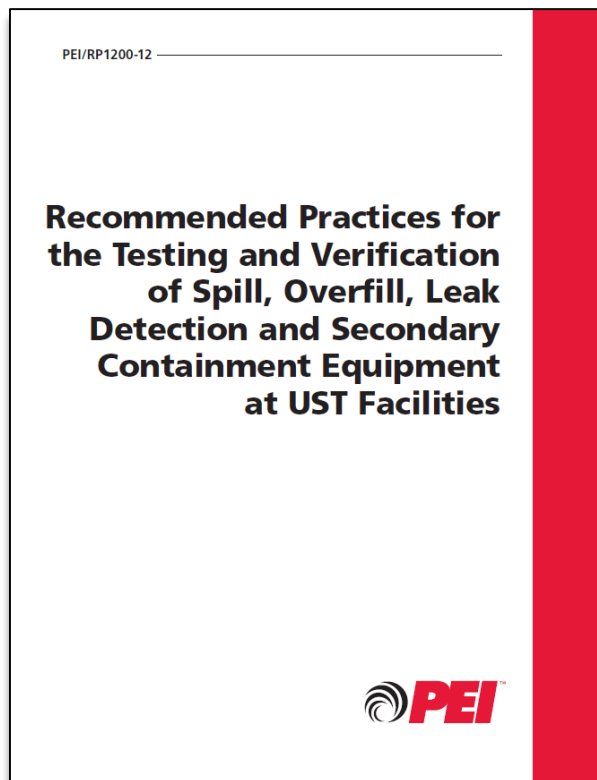


Reference Guidelines

Instructions for Conducting Sampling



Recommended Practices for Testing Secondary Containment

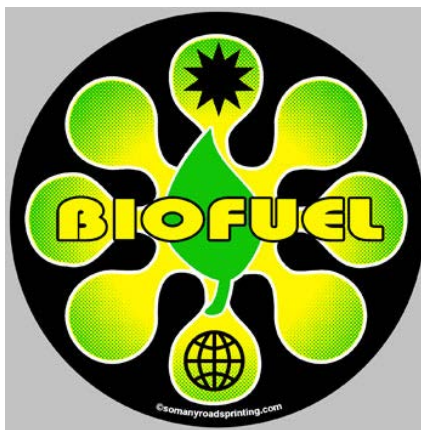




Applicability

The Department removed the term “de minimus” and replaced it with more specific rule exemptions:

- Storage tanks containing pollutants of less than 2% and hazardous substances below the reportable quantities, and
- Storage tanks containing biofuels with 5% or less of regulated substances





Operator Training

- Each facility, including unmanned facilities, must designate a Class A, B, and C operator by **October 13, 2018**.
- Class A – has primary responsibility for facility, such as owner, and can operate one or more facilities.
- Class B – implements day-to-day tank operations, such as operator or independent consultant, and can operate up to 50 facilities. If a contractor, then must also be a Certified Contractor or must be employed by a Certified Contractor.
- Class C – controls dispensing of fuel, such as manager/clerk, and must be trained for each facility.
- Class A and B operators must be re-trained if the Department issues a Notice of Violation for a significant issue (FR, construction, overfill/spill containment, and release detection).



Operator Training

- Class A - C must complete approved training course, except that Class C may receive training from Class B.
- Facilities must have a trained employee present during hours of operation, unless facility is unmanned.
- Unmanned facilities must have emergency information signage visible from any dispenser.
- Certificates of training must be maintained and available for inspection.
- Emergency contact numbers must be posted for Class C operators' use and site specific response procedures must be accessible.



Registration/Notification - Installations

Former Requirements

- Notify county at least **30 days prior** to install (verbal or written).
- Confirm with county at least **48 hours prior** to install (verbal or written).
- Register no later than **30 days after** putting substance into new tank.
- Provide a certified contractor form within **30 days after** installation.

New Requirements

- Notify county **30-45 days prior** to install (written).
- Confirm with county **48-72 hours prior** to install (written).
- For new facility – register **30 days prior** to install. **7 days prior to adding product** for existing facility.
- Provide a certified contractor form within **21 days after** installation.



Registration/Notification - Closures

Former Requirements

- Notify county at least **10 days prior** to closure (verbal or written).
- Confirm with county at least **48 hours prior** to closure (verbal or written).
- Register no later than **30 days after** closure.
- *Register no later than **30 days after** other changes.*
- Provide a certified contractor form within 30 days after removal.

New Requirements

- Notify county **30-45 days prior** to closure (written).
- Confirm with county **48-72 hours prior** to closure (written).
- Register no later than **10 days after** closure.
- *Register no later than **10 days after** other changes.*
- Provide a certified contractor form within 21 days after removal.



Registration/Notification - Delivery Prohibition

- Motor fuel may not be placed into regulated tanks unless there is a valid registration placard displayed at the facility.
- Motor fuel means petroleum products used for the operation of a motor or engine.



Placard Revocation & Delivery Prohibition

A placard may be revoked for the following non-compliance issues:

- Failure to install, operate and maintain release detection equipment
- Failure to meet storage tank system requirements (Section .500)
- Failure to respond to an ongoing discharge
- Failure to maintain financial responsibility



Placard Revocation & Delivery Prohibition

To release a revocation:

1. Facility owner gives written notice to Department.
2. Local program reinspects (as necessary) within 2 business days.
3. Department releases revocation within 3 business days if all deficiencies corrected.



Financial Responsibility

- Financial responsibility (FR) is the ability to pay for cleanup of a discharge of petroleum or petroleum product and for third-party liability resulting from the discharge.
- FR must be maintained until the regulated tank is closed. If it is not maintained, then the UST must be closed.
- FR may be demonstrated by owner or operator. The facility owner is liable in event of noncompliance.
- FR must be demonstrated in accordance with EPA's reference guideline, or in accordance with 62-761.900(3).



Financial Responsibility

Form 62-761.900(3)



DEP Form 62-761.900(3)
Form Title: Financial Mechanisms for Storage Tanks
Parts A - P
Form Effective Date:
Incorporated in Rules 62-761.420 and 62-762.421, F.A.C.

STATE OF FLORIDA FINANCIAL MECHANISMS FOR STORAGE TANKS to demonstrate financial responsibility

Part	Title [federal code reference]	Page
-	Instructions	i
-	Terms, References and Requirements pertaining to Form 62-761.900(3)	ii
A	Financial Test (Self-Insurance) [40 CFR Part 280.95(d)] *	1
B	Guarantee [40 CFR Part 280.96(c)] †	5
C	Insurance Endorsement [40 CFR Part 280.97(b)(1)] *	8
D	Certificate of Insurance [40 CFR Part 280.97(b)(2)] *	10
E	Performance Bond [40 CFR Part 280.98(b)] *†	12
F	Irrevocable Letter of Credit [40 CFR Part 280.99(b)] ‡	15
G	Trust Fund Agreement [40 CFR Part 280.102] *	17
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I	Local Government Bond Rating Test [40 CFR Part 280.104(d)] *	27
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K	Local Gov. Guarantee with Standby Trust Fund by a State [40 CFR Part 280.106(d)] † 32	
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O	Local Government Fund [40 CFR Part 280.107(d)] *	40
P	Certification of Financial Responsibility [40 CFR Part 280.111(b)] ‡	42

* Requires supporting documentation to be maintained. See References and Requirements.

† Requires other parts of Form 62-761.900(3) to be maintained. See References and Requirements.

‡ The Certification is always required.

DEP Form 62-761.900(3)

Certificate of Insurance

Table of Contents

Handwritten notes kept on file to make available for inspection upon the writing date index.
Guidance:
http://www.dep.state.fl.us/water/programs/financialresponsibility.htm

DEP Form 62-761.900(3)
Form Title: Financial Mechanisms for Storage Tanks
Parts A - P
Form Effective Date:
Incorporated in Rules 62-761.420 and 62-762.421, F.A.C.

STATE OF FLORIDA STORAGE TANK CERTIFICATE OF INSURANCE Reference: 40 CFR Part 280.97(b)(2)

Insurer or Risk Retention Group:

[Name of Insurer or Risk Retention Group] (herein referred to as "Insurer")

[Business address of Insurer or Risk Retention Group]

"Insurer" is a(n) _____
[Enter "insurer" or "risk retention group"]

Insured:

[Name of owner or operator]

[Business address of owner or operator]

Policy Number: _____ **Endorsement Number:** _____
[if applicable]

Period of Coverage: _____ **Policy Effective Date:** _____
[Current policy period]

Covered Locations:

[List for each facility covered, the FDEP identification number and the name and site address of the facility where tanks assured by this instrument are located and the number of tanks at that site. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this instrument by the tank identification number provided in the notification submitted pursuant to 62-761.400 and 62-762.401 F.A.C. If coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location. Indicate "See attachment" if required.]

FDEP I.D. No. _____ **Facility Name and Site Address** _____ **Number of Tanks or Tank I.D. Nos.** _____

Certification:

1. "Insurer" hereby certifies that it has issued to the Insured the liability insurance identified above to provide financial assurance for _____ caused by _____
[Insert: "corrective action" and/or "compensating third parties for bodily injury and property damage"]

_____ accidental releases in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy arising from operating the facilities/tanks identified above. The Insurer further warrants that such policy conforms in all respects with the requirements of 40 CFR Part 280.97(b), as adopted by reference in Rule 62-761.420, Florida Administrative Code (F.A.C.) for the above specified financial assurance. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

DEP Form 62-761.900(3)

Part D page 1 of 2
Entire form page 11 of 42



Financial Responsibility

Certification of Financial Responsibility

<p><small>Financial instrument is back of slide that is made available for representative to download upon notice</small></p> <p><small>Guidance</small> http://www.dep.state.fl.us/water/programs/financial.htm</p>	<p>Table of Contents</p>	<p><small>DEP Form 62-761.900(3) Issued 1/15/15 Replaces DEP Form 62-761.900(3) 1/15/15 Incorporated in DEP Form 62-761.900(3) 1/15/15</small></p>
<p>STATE OF FLORIDA CERTIFICATION OF FINANCIAL RESPONSIBILITY <small>Reference: 40 CFR 280.111(b)</small></p>		
<p>Owner or Operator: _____</p>		
<p>The person whose signature appears below hereby certifies that the following facility(ies) is (are) in compliance with the requirements of subpart H of 40 CFR part 280 as adopted by Chapter 62-761 and/or 62-762, F.A.C. (Indicate "See Attachment" if more than one facility is covered.)</p>		
<p>Facility Name: _____ FDEP Facility ID: _____</p>		
<p>The following financial assurance mechanism(s) is (are) used to demonstrate financial responsibility:</p>		
<p>Primary Mechanism: _____ <small>(Enter type of funding mechanism, guarantee or financial test without guarantee)</small></p>		
<p>Name of Issuer: _____ <small>(Issuer or Guarantor)</small></p>		
<p>Instrument No.: _____ Period of Coverage: _____ to _____ <small>(If applicable) (Dates of coverage)</small></p>		
<p>Complete the following only as applicable (Required when Bond, Letter of Credit and Guarantees are used):</p>		
<p>Standby Trust Fund (SBTF) Trustee: _____ <small>(Required when Bond, Letter of Credit and some Guarantees are used)</small></p> <p>SBTF entered into date: _____ Account number: _____</p> <p>Financial Test used (required for all Guarantees): Form Part _____ completed <small>(Insert A, I, J or Q)</small></p>		
<p>The mechanism(s) demonstrate(s) financial responsibility for _____ <small>(Insert "taking corrective action" and/or "compensating third parties for bodily injury and property damage")</small></p>		
<p>caused by _____ for UST and/or AST in the amount of: _____ <small>(Insert "sudden accidental releases" or "non-sudden accidental releases" or "accidental releases")</small></p>		
<p>Per Occurrence: \$ _____ Annual Aggregate: \$ _____</p>		
<p>Signature of Authorized Representative of owner or operator _____ Type Name and Title _____</p>		
<p>Signature of Witness or Notary _____ Type Name of Witness or include Notary Seal _____ Date _____</p>		
<p>This certification must be updated whenever the financial assurance mechanism(s) used to demonstrate financial responsibility change(s).</p>		
<p>DEP Form 62-761.900(3) Part P page 1 of 1 Entire form page 42 of 42</p>		



Incidents

- An incident is a situation indicating that a release or discharge may have occurred.
- The Incidents section now includes all the possible positive responses of release detection devices.
- The facility now has 72 hours to report an incident (former rule – 24 hours). *An Incident Notification Form (INF) is not required if during this timeframe it is confirmed that a discharge did not occur.*
- The facility still has 14 days to investigate, but may be extended, upon approval, to 45 days without having to remove from service.
- For every incident that occurs, whether an INF is required or not, there must be documentation maintained of the discovery/investigation/conclusions of the investigation.
 - This information is very important in instances where closure integrity evaluations are being conducted or repairs are being made due to sump or other secondary containment integrity issues.



Discharges

- The owner must report the discovery of a discharge within 24 hours.
- However, if it is thought that the discovery is a previously reported discharge, then the owner has 30 days to investigate and submit supporting documentation.





Construction Requirements

For new installations:

- A containment integrity test shall be conducted for single-walled spill buckets and sumps.
- An interstitial integrity test shall be conducted for USTs, double-walled small diameter piping in contact with the soil or over surface waters of the state, and for double-walled spill buckets and sumps.

In general, the testing must be conducted for one hour, instead of the former three hours in accordance with PEI/RP1200-12.



Construction Requirements



For new USTs or piping installed in contact with the soil, a survey drawing signed and sealed by a professional land surveyor or engineer must be completed and maintained.



Construction Requirements



Storage tank systems that produce a gravity head on small diameter piping must be installed with anti-siphon valves.

For existing systems without ASVs, they must be installed by October 13, 2018.



Construction Requirements



Ball Float Valves



High-Level Alarms



Flapper Valves

All overfill protection devices for USTs must be tested for proper operation annually at intervals not exceeding 12 months. The initial testing must be conducted within 12 months of the effective date of the rule (by 1/11/18).



Construction Requirements



Vent restriction devices cannot be used when:

- Overfill protection is installed or replaced after the effective date of the rule,
- There is a possibility of a pumped delivery into the tank,
- The storage tank system is equipped with suction pumps & air eliminators,
- The storage tank is equipped with coaxial stage I vapor recovery, unless special fittings are installed, and
- Flapper valves have been installed.



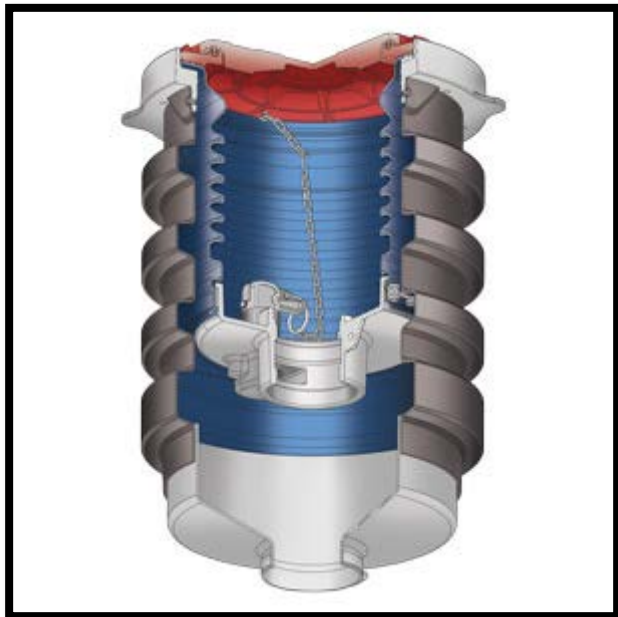
Construction Requirements



USTs with capacities of 2,000 gallons or less that DO NOT receive delivery by a joined tight fill adaptor connection are exempt from overfill protection requirements as long as the USTs are never filled beyond 80% capacity.



Release Detection Requirements



Double-walled spill buckets, regardless of when installed, must be operated and maintained as double-walled.



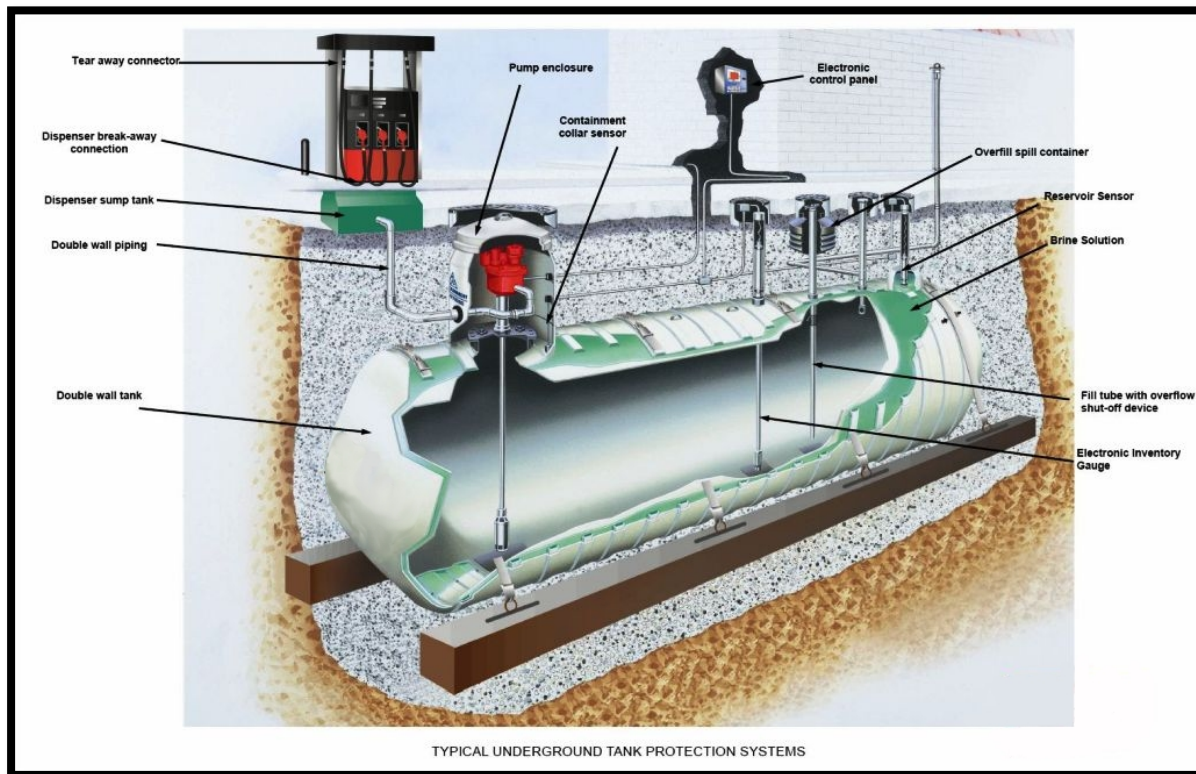
Release Detection Requirements



Piping and dispenser sumps that use electronic release detection must also be visually inspected every six months.



Release Detection Requirements



The rule now specifically requires that facilities maintain a monthly record of alarm history and sensor status for inspection. Each release detection alarm that occurs from a facility's chosen form(s) of release detection must be investigated as an incident, and findings must be maintained for inspection.



Release Detection Requirements



Existing USTs that store fuel for generators must have release detection by October 13, 2018. USTs installed after the effective date of the new rule must have release detection upon installation.



Release Detection Requirements



Pressure readings shall be able to detect a 50% change from month to month or from the initial level. Vacuum systems shall be able to detect any complete loss of vacuum or positive pressure reading.



Repairs, Operation and Maintenance

Periodic integrity testing will be required as follows:

- Double-walled tanks and double-walled piping at the time of installation and at the time of any repairs.
- Piping/dispenser sumps and double-walled spill containment by October 13, 2018, and every three years after.
- Single-walled spill containment systems within one year of the rule effective date (by 1/11/18) and every year thereafter.



Repairs, Operation and Maintenance

Water in excess of 1"(no longer at the piping penetrations) or any regulated substances must be removed within 72 hours of discovery.





Recordkeeping



Records, unless required to be maintained until UST closure, must be maintained for **three** years (except that records generated prior to the effective date of the rule must still be kept for two years).



Recordkeeping

The following changes to the records requirements have been made:

- The Release Detection Response Level (RDRL) requirement has been removed from the rule.
- Release detection records must include a record of alarm history for electronic release detection devices.
- Class A, B, and C training certificates shall be maintained for as long as the operators are designated for the facility, *once required*.
- Survey drawings shall be kept until closure of the component(s) surveyed.



Out-of-Service Requirements

- Whether the tank contains petroleum/petroleum products or not, FR must be maintained. If FR is not maintained, then the tank must be closed within 90 days.
- For tanks that are “empty” but still contain regulated substances – monitor the interstice and liquid level every 12 months.
- For systems out-of-service for more than 2 years – interstitial integrity testing must be conducted before placing back into service.



Closure Requirements

- Single-walled USTs and piping in contact with the soil that are discovered must be closed and undergo closure sampling during closure.
- Double-walled USTs, double-walled piping, dispenser/piping sumps and spill containment devices in contact with the soil must undergo a closure integrity evaluation no more than 45 days prior to closure to determine if closure sampling is required.
- In cases where closure integrity evaluation is required, the closure integrity report must be submitted to the county with closure notification prior to actual closure (30-45 days prior).

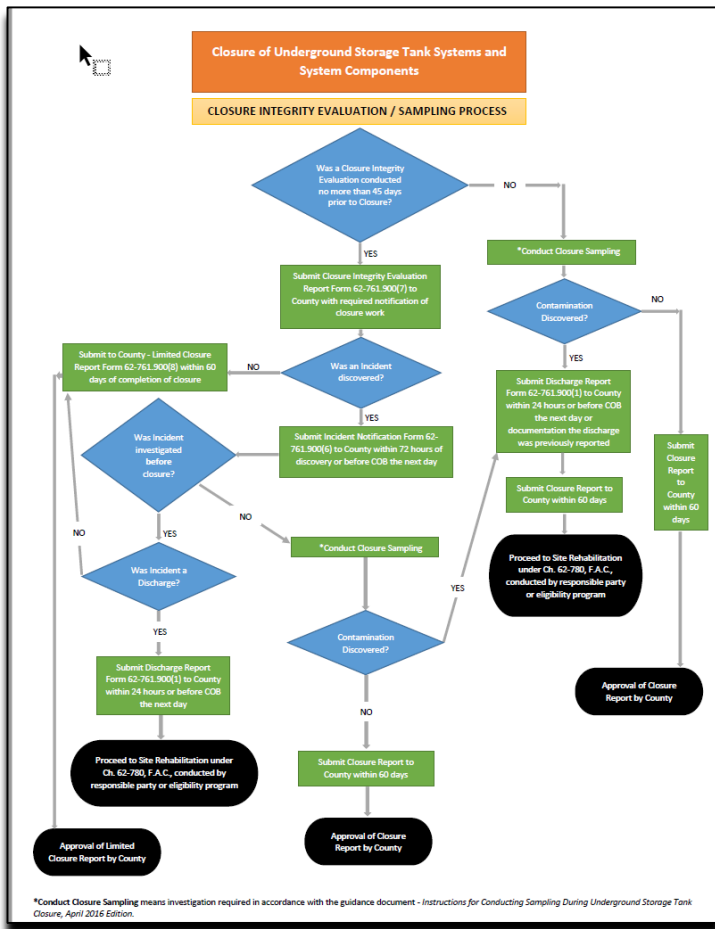


Closure Requirements

- If a closure integrity evaluation is required but not conducted, then closure sampling is required.
- In cases where closure sampling is required, a closure report will be due to the county within 60 days.
- In cases where closure sampling is not required, a Limited Closure Report will be due in 60 days using Form 62-761.900(8).



Closure Requirements





Equipment Registration

- Currently, storage tank system equipment used in the State of Florida must undergo formal Department equipment approval.
- The proposed rule replaces equipment approval process with a registration process.
- The registration application must include a third-party evaluation of the equipment.
- Registration renewal must occur every five years.



Any Questions?

Helpful Resources

- Storage Tank Compliance Main Page:
<http://www.dep.state.fl.us/waste/categories/tanks/default.htm>
- Announcements:
<http://www.dep.state.fl.us/waste/categories/shw/pages/announcements.htm>
- Financial Responsibility:
<http://www.dep.state.fl.us/waste/categories/tanksfr/default.htm>
- Storage Tank Registration:
<http://www.dep.state.fl.us/waste/categories/tanks/pages/registration.htm>
- Storage Tank Rules, Forms and Guidance Documents:
<http://www.dep.state.fl.us/waste/categories/tanks/pages/rules.htm>