

ENVIRONMENTAL QUALITY

CHAPTER 56

UNDERGROUND STORAGE TANKS
PETROLEUM AND CHEMICAL SUBSTANCES

Subchapter 13

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Subchapter 13

Underground Storage Tank Permitting

17.56.1301 DEFINITIONS For the purposes of subchapters 13 and 14 and unless otherwise provided, the following terms have the meanings given to them in this rule and must be used in conjunction with the definitions in subchapter 1 of this chapter and those in 75-11-203 and 75-11-503, MCA:

(1) "Annual period" means a calendar year beginning on March 1 and ending on the last day of February of the following year, for the purpose of calculating when fees are due to the department.

(2) "Day" means a calendar day.

(3) "External leak detection device" means a monitoring system that is located external to and not attached to an underground storage tank system and that is designed and installed to detect a release of the regulated substance stored in the underground storage tank system. Examples of external leak detection devices include, but are not limited to, soil vapor monitoring wells, observation wells, continuous monitoring equipment, if any, that is installed within the wells to detect a release, and a groundwater monitoring well when constructed by a person holding a monitoring well constructor license issued by the board of water well contractors and in accordance with the provisions of ARM Title 36, chapter 21, and ARM 17.56.407(1)(f).

(4) "Groundwater monitoring well" means a monitoring well constructed by a licensed monitoring well contractor and in accordance with the requirements of ARM Title 36, chapter 21, and any associated sensing equipment which is located outside of the tank excavation and is designed and installed to be used to detect releases of regulated substances from underground storage tank systems.

(5) "Installer license" means a license issued to an individual by the department under 75-11-210, MCA, to conduct the installation, closure, or both, of underground storage tank systems.

(6) "Lining" means the addition of a plastic, fiberglass, or other shell of impervious material to the inside of an underground storage tank for the purpose of ensuring that the tank retains its contents. The term includes all steps to be taken in preparation for the addition of the lining and includes relining.

(7) "Major installation" means the installation of underground storage tanks, piping, vapor or groundwater leak detection monitoring wells, corrosion protection, interstitial tank probes and sensors and corrosion protection system anodes. Repair or modification of the above-listed items, and activities not defined as a "minor installation" are also considered major installations.

(8) "Minor installation" means the installation of replacement spill buckets, offset sleeves on tank risers, boots on piping flex connectors, ball-float vent valves in existing risers, drop-tubes, drop-tube shut-off valves and auto dialers, and the extension or replacement of vent standpipes. Minor installation also includes the decommissioning of groundwater and vapor leak detection monitoring wells.

(9) "Modification" means a significant change in the structure or components of an underground storage tank system, and includes, but is not limited to, lining a tank, cutting the walls of a tank, and the addition of internal leak detection devices.

(10) "Observation well" means, for purposes of this subchapter, a device and sensing equipment, if any, which consists of a cased penetration of an underground storage tank's backfill from which groundwater and/or soil vapors are monitored to detect whether a release of the regulated substance stored in an underground storage tank system has occurred, and which is located entirely within an underground storage tank system's backfill and does not penetrate beyond the bottom of the tank system's backfill.

(11) "Triennial period" means a period of three calendar years beginning on March 1 and ending on the last day of February three years later for the purpose of calculating continuing education units earned by a licensee of the department.

(History: 75-11-204, 75-11-505, MCA; IMP, 75-11-204, 75-11-209, 75-11-210, 75-11-212, 75-11-509, MCA; EMERG, NEW, 1990 MAR p. 1827, Eff. 10/1/90; AMD, 1994 MAR p. 2744, Eff. 10/14/94; TRANS, from DHES, 1995 MAR p. 2259; AMD & TRANS, 2000 MAR p. 969, Eff. 4/14/00; AMD, 2003 MAR p. 1079, Eff. 5/23/03; AMD, 2005 MAR p. 443, Eff. 4/1/05; AMD, 2016 MAR p. 1694, Eff. 9/24/16.)

Rule 17.56.1302 reserved

17.56.1303 INSTALLATION AND CLOSURE PERMIT REQUIREMENT--APPLICATION (1) No person may install or close an underground storage tank system without a permit issued by the department pursuant to ARM 17.56.1305 or 17.56.1306.

(2) Except as provided in (6):

(a) a completed application for a major installation permit must be filed by the permit applicant on a form provided by the department at least 30 days prior to the proposed date of installation; and

(b) a completed application for a minor installation or closure permit must be filed by the permit applicant on a form provided by the department at least 20 days prior to the proposed date of installation or closure.

(3) If the installation or closure is to be conducted by:

(a) a licensed installer or remover, the licensed installer or remover shall sign the permit application;

(b) an owner or operator with an on-site installation inspector, the owner or operator must sign the permit application.

(4) The department shall notify an applicant if it determines that an application is deficient. The department shall notify the applicant what information is required for the application to be considered complete. The department shall hold deficient applications pending the receipt of the required information. The department shall issue the permit within 30 days of the department's receipt of the complete permit application. If the applicant fails to submit the required information within six months of receiving the department's deficiency notice, the deficient permit application expires.

(5) The permit application review fee required by ARM 17.56.1304 and any applicable inspection fee required by ARM 17.56.1309 must be received by the department within five business days of applicant's submittal of the permit application to the department. If the permit applicant accumulates more than two unpaid permit application review and/or inspection fees, the department shall suspend further permit reviews until all past due fees are paid in full.

(6) For good cause, the department may waive the 30-day requirement in (2). (History: 75-11-204, MCA; IMP, 75-11-204, 75-11-209, 75-11-212, MCA; EMERG, NEW, 1990 MAR p. 1827, Eff. 10/1/90; AMD, 1994 MAR p. 2744, Eff. 10/14/94; TRANS, from DHES, 1995 MAR p. 2259; AMD & TRANS, 2000 MAR p. 969, Eff. 4/14/00; AMD, 2005 MAR p. 443, Eff. 4/1/05; AMD, 2016 MAR p. 1694, Eff. 9/24/16.)

17.56.1304 PERMIT APPLICATION REVIEW FEES (1) A person applying for an underground storage tank installation or closure permit shall pay to the department the applicable permit application review fee provided in (2) through (5), and, if a licensed installer will not conduct the installation or closure, the applicable inspection fee provided in ARM 17.56.1309.

(2) A permit application is deficient until the permit application review fee is paid to the department.

(3) Subject to the limitation in (4), for the installation or closure of an underground storage tank system, the permit applicant shall pay the following permit application review fees:

(a) any application, or group of applications, proposing work at a facility that includes the installation or closure of an underground storage tank.....\$100/permit plus \$0.02/gallon of tank capacity;

(b) any application solely for a minor installation\$50;

(c) any application solely for piping installation and/or closure:

(i) greater than 50 feet\$100;

(ii) 50 feet or less\$ 50;

and

(d) any combination of applications in (3)(b) and (c), or any other permit application\$100.

(4) To determine whether a proposed piping installation or closure exceeds the 50-foot threshold in (3)(c), piping length shall be calculated as the sum of the linear feet of all pipe proposed to be installed and closed.

(5) Permit application review fees for installations, closures or both, at one facility or location must not exceed \$750 per permit issued by the department.

(6) For the issuance of a duplicate of any permit, the permittee shall pay a fee of \$10. (History: 75-11-204, MCA; IMP, 75-11-204, 75-11-209, 75-11-212, MCA; NEW, 1990 MAR p. 1827, Eff. 10/1/90; AMD, 1991 MAR p. 1280, Eff. 7/26/91; AMD, 1994 MAR p. 2744, Eff. 10/14/94; TRANS, from DHES, 1995 MAR p. 2259; AMD & TRANS, 2000 MAR p. 2018, Eff. 4/14/00; AMD, 2003 MAR p. 1079, Eff. 5/23/03; AMD, 2005 MAR p. 443, Eff. 4/1/05; AMD, 2016 MAR p. 1694, Eff. 9/24/16.)

17.56.1305 MAJOR INSTALLATION, MINOR INSTALLATIONS, AND CLOSURE PERMIT ISSUANCE, TERMS, CONDITIONS (1) Upon receipt of a completed permit application and the fees required by ARM 17.56.1304 or 17.56.1309 for the installation or closure of an underground storage tank system, the department shall review the application and determine whether the proposed installation or closure meets the criteria for approval in (2).

(2) A permit must be issued by the department upon its determination that the proposed installation or closure will:

(a) comply with applicable statutes and rules of the department;

(b) comply with state law and rules governing disposal of the tank system components and tank contents; and

(c) be conducted in such a place and manner as to protect the environment, and the public's health, welfare, and safety.

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- (3) A permit issued to an applicant under this rule must state:
- (a) the name of the owner or operator to whom the permit is issued;
 - (b) the address or location of the site of the planned installation or closure;
 - (c) the date(s) when the installation or closure is to be conducted;
 - (d) whether the installation or closure will be conducted by a licensed installer and, if so, the name and license number of the installer;
 - (e) whether the installation or closure will be inspected by the department;
- and
- (f) any special permit conditions imposed by the department that are necessary to ensure the permit applicant's requested installation or removal activities are in compliance with (2).
- (4) The department may not issue a permit under this rule until all annual registration fees required by ARM 17.56.1001 are received.
- (5) The licensee or the department installer or remover inspector must sign and deliver the permit and all other required documentation specified by permit conditions to the department within 30 days of the installation or closure.
- (6) The permit must be kept at the installation or closure site during all phases of the installation or closure.
- (7) If the department deems it necessary to protect public health or the environment, the department may require any installation to be inspected by a department inspector. Whenever this occurs, the fee must be paid by the owner, operator, installer, or any other person who made the inspection necessary.
- (8) A permit issued by the department under this rule or under ARM 17.56.1306 is issued subject to the accuracy of the information provided by the applicant in the permit application, the information stated or referenced on the permit pursuant to (3), compliance with all applicable statutes and rules and any conditions applied by the department. Any installation or closure not conducted in accordance with any information, condition(s), statute or rule will be considered to be conducted without a permit, and in violation of the law.
- (9) Unless extended in writing by the department, permit is valid for six months from the date of issuance.
- (10) The owner or operator shall keep a copy of the signed permit at the place where the installation or closure was conducted or at the owner or operator's place of business if that place is different from the installation or closure location and copies cannot safely be kept at the location of the installation or closure. The copy of the permit must be kept for as long as the tank system is used to store a regulated substance in the same location, or for at least three years after a closure is completed at that site.
- (11) A permit issued under this subchapter is nontransferable. (History: 75-11-204, 75-11-505, MCA; IMP, 75-11-204, 75-11-209, 75-11-212, 75-11-505, MCA; EMERG, NEW, 1990 MAR p. 1827, Eff. 10/1/90; AMD, 1994 MAR p. 2744, Eff. 10/14/94; TRANS, from DHES, 1995 MAR p. 2259; AMD & TRANS, 2000 MAR p. 969, Eff. 4/14/00; AMD, 2003 MAR p. 1079, Eff. 5/23/03; AMD, 2011 MAR p. 145, Eff. 2/11/11; AMD, 2016 MAR p. 1694, Eff. 9/24/16.)

17.56.1306 EMERGENCY PERMIT APPLICATION AND ISSUANCE (1) In the event of an emergency requiring immediate installation or closure of an underground storage tank system, the applicant may contact the department, provide the information required by ARM 17.56.1303 and explain the nature of the emergency and the consequences of nonissuance. An emergency permit may be issued orally by the department and it will be valid for a maximum of ten days. Whenever an emergency permit is issued, the applicant shall pay the appropriate fees as provided in ARM 17.56.1304, and submit a completed permit application to the department within ten days of issuance of the emergency permit.

(2) If the department determines that an emergency exists under (1) and (3) and that the requirements of ARM 17.56.1303(2) have been satisfied, it must issue the permit in the manner provided by this rule and subject to any permit conditions imposed pursuant to this subchapter.

(3) For the purposes of this rule, an emergency is an imminent and substantial threat to the public health or safety or to the environment, including a threat to public health or safety or to the environment identified in a judicial order or an order of the department. (History: 75-11-204, MCA; IMP, 75-11-204, 75-11-209, 75-11-212, MCA; EMERG, NEW, 1990 MAR p. 1827, Eff. 10/1/90; AMD, 1994 MAR p. 2744, Eff. 10/14/94; TRANS, from DHES, 1995 MAR p. 2259; AMD, 1998 MAR p. 1739, Eff. 6/26/98; AMD & TRANS, 2000 MAR p. 969, Eff. 4/14/00; AMD, 2016 MAR p. 1694, Eff. 9/24/16.)

17.56.1307 PERMIT CONDITIONING, MODIFICATION, SUSPENSION, REVOCATION (1) The department may condition, modify, suspend, or revoke any permit previously issued under ARM 17.56.1305 or 17.56.1306 upon its determination that:

(a) the owner, operator, or licensee failed to meet the standards for issuance of a permit under ARM 17.56.1303, 17.56.1305, or 17.56.1306, as appropriate;

(b) the owner, operator or licensee committed fraud or deceit in applying for a permit;

(c) the owner, operator, or licensee violated any statute or rule governing the installation or closure of an underground storage tank system of the department;

(d) the owner, operator, or licensee violated the terms of any permit or order issued by the department relating to the installation or closure of an underground storage tank system;

(e) the owner, operator, or licensee lacks the education, training, or experience necessary to conduct any installation or closure for which a permit was previously issued;

(f) a change in the facts or circumstances of installation or closure necessitates a change in the permit; or that

(g) the condition, modification, suspension, or revocation is necessary to protect the installer's or the public's health, welfare, or safety, or the environment.

(2) Action by the department pursuant to (1) must be accompanied by a written statement of the reason for the department action.

(3) Upon revocation of a permit and written demand by the department, the owner, operator, or licensee shall surrender his or her permit to the department. The department shall retain the revoked permit or issue a modified or conditional permit in accordance with this rule.

(4) The owner, operator, or licensee shall comply with the conditions or modifications imposed by the department.

(5) The conditioning, modification, suspension, or revocation of a permit is effective upon delivery to the owner, operator, or licensee at the address shown on the permit application whether or not the permittee actually takes possession of the notice. When a permit is revoked in accordance with this rule, the owner or operator may not install or close the tank system for which the permit was originally issued without again applying for and receiving a new permit. (History: 75-11-204, MCA; IMP, 75-11-204, 75-11-209, 75-11-212, MCA; NEW, 1990 MAR p. 1827, Eff. 10/1/90; AMD, 1994 MAR p. 2744, Eff. 10/14/94; TRANS, from DHES, 1995 MAR p. 2259; AMD & TRANS, 2000 MAR p. 969, Eff. 4/14/00.)

17.56.1308 INSPECTION IN LIEU OF LICENSED INSTALLER (1) An owner or operator intending to install or close an underground storage tank system without the services of a licensed installer in accordance with 75-11-213, MCA, must have the installation or closure inspected by a licensed department inspector.

(2) An owner or operator intending to have the department provide an inspector for the installation or closure of an underground storage tank system in lieu of obtaining the services of a licensed installer shall so state on the permit application submitted to the department. The permit application must be accompanied by the applicable permit review fee required by ARM 17.56.1304 and the inspection fee required by ARM 17.56.1309. As soon as practicable after a permit is issued by the department, the owner or operator must schedule an inspection for a date mutually agreeable to both the department and the applicant.

(3) A licensed department inspector need not be present when concrete or pavement is being removed from over an underground storage tank system in preparation for a closure or repair so long as the tank and its associated piping are not disturbed by the activity. (History: 75-11-204, MCA; IMP, 75-11-204, 75-11-209, 75-11-212, 75-11-213, MCA; NEW, 1990 MAR p. 1827, Eff. 10/1/90; AMD, 1994 MAR p. 2744, Eff. 10/14/94; TRANS, from DHES, 1995 MAR p. 2259; AMD & TRANS, 2000 MAR p. 969, Eff. 4/14/00; AMD, 2016 MAR p. 1694, Eff. 9/24/16.)

17.56.1309 INSTALLATION AND CLOSURE INSPECTION FEES (1) An inspection fee deposit of \$90 for the use of a licensed department inspector shall be submitted to the department for each installation or closure not conducted by a licensed installer. The owner or operator shall submit the inspection fee deposit with the permit application in accordance with ARM 17.56.1308 and the fee must be paid in the form of a check or money order made payable to the Montana Department of Environmental Quality.

(2) If a permit applicant changes the method of installation or closure from inspection to use of a licensed installer or cancels the installation or closure, the department shall refund the inspection fee deposit to the applicant, without payment of interest, upon the applicant's request if:

(a) the department receives from the applicant a written request for a refund not later than two weeks after the expiration of the permit; and

(b) the applicant surrenders the unused permit to the department.

(3) Within five days after completion of the inspection, the inspector shall report the total time required for the inspection, including the inspector's travel time to and from the inspection site, reported to the nearest one-half hour. Upon receipt of the report, the department shall calculate the total inspection fee owing to the department based upon the following formula for closures and installation inspections:

<u>Type of Fee</u>	
Minimum fee (fee deposit)	\$90
Per hour fee for each hour over 2 hours	\$45

(4) The total inspection fee must be calculated by multiplying the actual inspection and travel time that is greater than two hours, calculated to the nearest one-half hour, times the hourly fee provided in (3) and adding the result to the fee deposit. Any amount calculated greater than the deposit paid to the department must be billed by state invoice to the permittee and must be paid by the permittee within 30 days of receipt of the state's invoice. (History: 75-11-204, MCA; IMP, 75-11-204, 75-11-209, 75-11-212, 75-11-213, MCA; NEW, 1990 MAR p. 1827, Eff. 10/1/90; AMD, 1991 MAR p. 1280, Eff. 7/26/91; AMD, 1994 MAR p. 2744, Eff. 10/14/94; AMD, 1995 MAR p. 27, Eff. 10/14/94; TRANS, from DHES, 1995 MAR p. 2259; AMD & TRANS, 2000 MAR p. 2018, Eff. 4/14/00; AMD, 2016 MAR p. 1694, Eff. 9/24/16.)

