

ENVIRONMENTAL QUALITY

CHAPTER 56

UNDERGROUND STORAGE TANKS  
PETROLEUM AND CHEMICAL SUBSTANCES

Subchapter 5

Release Reporting, Investigation, and Confirmation

Rule	17.56.501	General
	17.56.502	Reporting of Suspected Releases
	17.56.503	Investigation Due to Off-site Impacts
	17.56.504	Release Investigation and Confirmation Steps
	17.56.505	Reporting and Cleanup of Spills and Overfills
	17.56.506	Reporting of Confirmed Releases
	17.56.507	Adoption by Reference
	17.56.508	Numbering Petroleum Releases

Subchapter 5

Release Reporting, Investigation, and Confirmation

17.56.501 GENERAL (1) Except as otherwise provided in this subchapter, owners and operators of UST systems must comply with the requirements of this subchapter. Owners and operators of PSTs seeking reimbursement from the Montana Petroleum Tank Release Cleanup Fund must comply with the requirements of this subchapter. (History: 75-10-405, 75-11-319, MCA; IMP, 75-10-405, 75-11-309, MCA; NEW, 1989 MAR p. 1912, Eff. 11/23/89; TRANS, from DHES, 1995 MAR p. 2259.)

17.56.502 REPORTING OF SUSPECTED RELEASES (1) Owners and operators, any person who installs or removes an UST, or who performs subsurface investigations for the presence of regulated substances, and any person who performs a tank tightness or line tightness test pursuant to ARM 17.56.407 or 17.56.408, must report suspected releases to a person within the department or to the 24-hour Disaster and Emergency Services duty officer available at telephone number (406) 324-4777 within 24 hours of discovery of the existence of any of the following conditions:

- (a) visual or olfactory observations, field monitoring results or other indicators of the presence of regulated substances in soil or nearby surface or ground water, or the presence of free product or vapors in basements, sewer or utility lines;
- (b) the sudden or unexplained loss of product from the tank system;
- (c) a failed tightness test, performed in accordance with subchapter 4, unless the tank system is found to be defective but not leaking and is immediately repaired or replaced;
- (d) sampling, testing, or monitoring results from a release detection method, performed in accordance with subchapter 4, that indicate a release may have occurred, unless the release detection or monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and subsequent monitoring, sampling, or testing indicates that the system is not leaking;
- (e) the presence of product in the tank secondary containment system;
- (f) erratic behavior of product dispensing equipment or automatic release detection equipment unless the equipment is found to be defective but not leaking, and is immediately repaired or replaced;

(g) an unexplained presence of water in the tank or in the interstitial space between the tank and the tank secondary containment;

(h) inconclusive results from a tank tightness test, performed in accordance with subchapter 4, unless the tank system is found to be defective but not leaking;

(i) sampling, testing, or monitoring results from a release detection method, required under subchapter 4, that are inconclusive and cannot rule out the occurrence of a release, unless the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and subsequent monitoring, sampling, or testing indicates that the system is not leaking;

(j) analytical results from soil samples that exceed 200 milligrams per kilogram for extractable petroleum hydrocarbons (EPH); and

(k) activation of a leak detection equipment monitoring alarm, or activation of flow restriction mode for a mechanical line leak detector, unless:

(i) within 24 hours of the occurrence of the condition, the condition is investigated, the cause of the condition is discovered, corrected, and a release to the environment or to secondary containment has not occurred;

(ii) the leak detection system is returned to a fully operational condition within 24 hours; and

(iii) records documenting the cause of the condition and the investigative and corrective actions undertaken in response to the condition are maintained for a one-year period at the facility, or at a readily available alternative site, where the records may be provided for inspection by the department upon request.

(2) Messages left on answering machines, received by facsimile, e-mail, voice mail, or other messaging device are not adequate 24-hour notice. For further assistance, the department's release reporting hotline may be reached at 1 (800) 457-0568. (History: 75-11-319, 75-11-505, MCA; IMP, 75-11-309, 75-11-505, MCA; NEW, 1989 MAR p. 1912, Eff. 11/23/89; TRANS, from DHES, 1995 MAR p. 2259; AMD, 2003 MAR p. 1079, Eff. 5/23/03; AMD, 2004 MAR p. 1391, Eff. 6/18/04; AMD, 2005 MAR p. 87, Eff. 1/14/05; AMD, 2007 MAR p. 2124, Eff. 12/21/07; AMD, 2009 MAR p. 4, Eff. 1/16/09; AMD, 2011 MAR p. 234, Eff. 2/25/11; AMD, 2016 MAR p. 1694, Eff. 9/24/16.)

17.56.503 INVESTIGATION DUE TO OFF-SITE IMPACTS (1) When required by the department based upon a suspected release, an owner and operator must follow the procedures in ARM 17.56.504 to determine if the system is the source of off-site impacts. These impacts include the discovery of regulated substances (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface and drinking waters) that have been observed by the department or brought to its attention by another person. (History: 75-10-405, 75-11-319, MCA; IMP, 75-10-405, 75-11-309, MCA; NEW, 1989 MAR p. 1912, Eff. 11/23/89; TRANS, from DHES, 1995 MAR p. 2259; AMD, 2016 MAR p. 1694, Eff. 9/24/16.)

17.56.504 RELEASE INVESTIGATION AND CONFIRMATION STEPS

(1) Unless corrective action is initiated in accordance with subchapter 6, owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under ARM 17.56.502, within seven days of the discovery of the condition identified in ARM 17.56.502, using either of the following steps, unless both are required by the language of this rule:

(a) Owners and operators must conduct tests (according to the requirements for tightness testing in ARM 17.56.407 and 17.56.408) that determine whether a leak exists in any portion of the tank that routinely contains product, or the attached delivery piping, or both.

(i) Owners and operators must immediately repair, replace or upgrade the PST or UST system, and begin corrective action in accordance with subchapter 6 if the test results for the system, tank, or delivery piping indicate that a leak exists.

(ii) Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release.

(iii) Owners and operators must conduct a site check as described in (1)(b) if the test results for the system, tank, and delivery piping do not indicate that a leak exists but environmental contamination is the basis for suspecting a release.

(b) Owners and operators must measure for the presence of a release where contamination is most likely to be present at the PST or UST site. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of ground water, and other factors appropriate for identifying the presence and source of the release. The department should be consulted to assist in determining sample types, sample locations, and measurement methods. Owners and operators of PST sites and owners and operators of UST sites should refer to the Montana Quality Assurance Plan for Investigation of Underground Storage Tank Releases as a guide in the collection, preservation and analysis of field samples;

(i) if the test results for the excavation zone or the PST or UST site indicate that a release has occurred, owners and operators must begin corrective action in accordance with subchapter 6;

(ii) if the test results for the excavation zone or the PST or UST site are taken according to (1)(b) and do not indicate that a release has occurred, further investigation is not required if approved by the department; and

(iii) the department may reject all or part of the test results, if it has reasonable doubt as to the quality of data or if the sample or test methods are scientifically unsound. In such cases, the department may require resampling, reanalysis, or both. The department will provide the owner or operator with an explanation of its decision to reject any test results. (History: 75-11-319, 75-11-505, MCA; IMP, 75-11-309, 75-11-505, MCA; NEW, 1989 MAR p. 1912, Eff. 11/23/89; TRANS, from DHES, 1995 MAR p. 2259; AMD, 2003 MAR p. 1079, Eff. 5/23/03; AMD, 2004 MAR p. 1391, Eff. 6/18/04.)

17.56.505 REPORTING AND CLEANUP OF SPILLS AND OVERFILLS

(1) Owners and operators must contain and immediately clean up a spill or overflow, immediately report the spill or overflow to the department pursuant to (3) or by another method that ensures that a person within the department receives notice within 24 hours of the release, and must begin corrective action in accordance with subchapter 6 in the following cases:

(a) spill or overflow of petroleum that results in a release to the environment that exceeds 25 gallons, or that causes a sheen on nearby surface water; and

(b) spill or overflow of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under 40 CFR Part 302.

(2) Owners and operators must contain and immediately clean up a spill or overflow of petroleum that is less than 25 gallons and a spill or overflow of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, owners and operators must immediately notify the department.

(3) Telephone notification required in (1) or (2) must be made to a person in the department or to the 24-hour Disaster and Emergency Services duty officer at (406) 324-4777. Messages left on answering machines, received by facsimile, e-mail, voice mail or other messaging device are not adequate 24-hour notice. For further assistance, the department's release reporting hotline may be reached at 1 (800) 457-0568. (History: 75-11-319, 75-11-505, MCA; IMP, 75-11-309, 75-11-505, MCA; NEW, 1989 MAR p. 1912, Eff. 11/23/89; TRANS, from DHES, 1995 MAR p. 2259; AMD, 2004 MAR p. 1391, Eff. 6/18/04; AMD, 2011 MAR p. 234, Eff. 2/25/11; AMD, 2016 MAR p. 1694, Eff. 9/24/16.)

17.56.506 REPORTING OF CONFIRMED RELEASES (1) Upon

confirmation of a release in accordance with ARM 17.56.504, or after a release from the PST or UST system is identified in any other manner, owners and operators, any person who installs or removes an UST, or who performs subsurface investigations for the presence of regulated substances, and any person who performs a tank tightness or line tightness test pursuant to ARM 17.56.407 or 17.56.408, must report releases to the department within the specified timeframes and in the following manner:

(a) Except as provided in (1)(b), all confirmed releases must be reported to a person within the department or to the 24-hour Disaster and Emergency Services duty officer available at (406) 324-4777 within 24 hours of confirming the release. Messages left on answering machines, received by facsimile, e-mail, voice mail, or other messaging device are not adequate 24-hour notice. For further assistance, the department's release reporting hotline may be reached at 1 (800) 457-0568.

(b) When a release is confirmed from laboratory analysis of samples collected from a site, the release must be reported to the department by a method that ensures the department receives the information within seven days of release confirmation. The date of release confirmation, for purposes of this rule, is the date the owner, operator, installer, remover, or person who performs subsurface investigations for the presence of regulated substances received notification of the sample results from the laboratory. Laboratory analytical results that exceed the following values confirm that a release has occurred:

(i) risk-based screening levels (RBSLs) established for petroleum contaminants in surface soil at UST sites, published in Table 1 of Montana Tier 1 Risk-based Corrective Action Guidance for Petroleum Releases (RBCA) for petroleum compounds and mixtures in surface and subsurface soil;

(ii) regional screening levels published in the United States Environmental Protection Agency, Regional Screening Level (RSL) Table for contaminants in soil that are not listed in RBCA; or

(iii) contaminant levels in water that exceed background levels in the receiving water. (History: 75-11-319, 75-11-505, MCA; IMP, 75-11-309, 75-11-505, MCA; NEW, 2004 MAR p. 1391, Eff. 6/18/04; AMD, 2010 MAR p. 1502, Eff. 6/25/10; AMD, 2011 MAR p. 234, Eff. 2/25/11; AMD, 2016 MAR p. 1694, Eff. 9/24/16.)

17.56.507 ADOPTION BY REFERENCE (1) For purposes of this subchapter, the department adopts and incorporates by reference:

(a) Department Circular DEQ-7, "Montana Numeric Water Quality Standards" (October 2012 edition);

(b) Montana Tier 1 Risk-Based Corrective Action Guidance for Petroleum Releases (RBCA) (September 2009);

(c) U.S. Environmental Protection Agency, Regional Screening Level (RSL) Table (May 2009); and

(d) Reportable Quantities for Hazardous Substances under section 102(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) published at 40 CFR Part 302 (2009).

(2) All references in this subchapter to the documents incorporated by reference in this rule are to the edition specified in this rule.

(3) Copies of the documents incorporated by reference in this rule may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901. (History: 75-11-319, 75-11-505, MCA; IMP, 75-11-309, 75-11-505, MCA; NEW, 2004 MAR p. 1391, Eff. 6/18/04; AMD, 2005 MAR p. 87, Eff. 1/14/05; AMD, 2006 MAR p. 528, Eff. 2/24/06; AMD, 2007 MAR p. 2124, Eff. 12/21/07; AMD, 2008 MAR p. 946, Eff. 5/9/08; AMD, 2010 MAR p. 1502, Eff. 6/25/10; AMD, 2010 MAR p. 1796, Eff. 8/13/10; AMD, 2012 MAR p. 2060, Eff. 10/12/12.)

17.56.508 NUMBERING PETROLEUM RELEASES (1) The department shall assign each confirmed petroleum release from a petroleum storage tank a unique identification number. Except as provided in (2), from the date of discovery of a confirmed release of petroleum from a petroleum storage tank at a facility, all contamination from petroleum storage tanks subsequently discovered through any investigative or corrective action in response to the previously confirmed and numbered release pursuant to subchapter 5 or 6, is considered "one release" and part of the previously confirmed and numbered release.

(2) Under the following circumstances the department shall confirm a separate release and assign another release identification number to petroleum contamination from a petroleum storage tank at a facility that has a previously confirmed and numbered release:

(a) when a separate release from a petroleum storage tank is discovered at a facility and, based on substantial evidence, the department finds the release began after the department categorized all earlier confirmed releases at the facility as resolved in accordance with ARM 17.56.607(4);

(b) when, based on substantial evidence, the department finds that there is a separate release of petroleum from a petroleum storage tank at a facility that began after any previously confirmed and numbered release was discovered; or

(c) when additional contamination from a petroleum storage tank is discovered and, based on substantial evidence, the department finds that the contamination originated from a petroleum storage tank or tanks at a different facility than the facility where the previously confirmed and numbered release occurred.

(3) For the purposes of this rule only, "facility" means any one or a combination of petroleum storage tanks that are located on contiguous property and owned and operated as a single business by the same person(s), at the time a confirmed release is discovered. A facility does not include petroleum storage tanks used in different businesses, or owned by different persons, and connected through permanent or temporary piping used to transfer petroleum products from one business to another at the time a confirmed release was discovered.

(4) "Petroleum storage tank" has the meaning provided in 75-11-302, MCA.

(5) The department may rescind a release number if the department determines that the release should not have been confirmed. This determination must be based on substantial evidence upon which the department may conclude that the release did not occur, that the contamination did not exceed standards cited in ARM 17.56.506, or that the contamination does not meet the criteria set forth in (2) and should have been attributed to an earlier confirmed release that has been assigned a release number. (History: 75-11-319, 75-11-505, MCA; IMP, 75-11-308, 75-11-309, 75-11-505, MCA; NEW, 2007 MAR p. 2124, Eff. 12/21/07.)

