



**TO:** Underground Storage Tank Regulated Community and Interested Parties

**FROM:** John Benoit Rule Expert and Coordinator Waste Management Bureau

**DATE:** January 04, 2024

**SUBJECT:** Informal Stakeholder Stage: UST Rule Revision Proposals

Brief Overview of Substantial Changes to Current Rule

#### 17.56.101 DEFINITIONS

- Reason: The department proposes the repeal of (33) "Implementing agency" as the referenced source 17.56.1003 was repealed in 2016 rendering its continued use inappropriate.

#### 17.56.1303 Installation and closure permit-application

- Reason: The department proposes to extend the application submittal time requirement in (2)(a) and the issuance of a permit in (4) from 30 days to XX days in each case. The department has attempted to keep the time necessary for application submittals to a minimum but finds that the comprehensive review necessary to comply with the Montana Environmental Policy Act, especially in the case of a major installation permit, may prove difficult to achieve without additional time for staff review. This revised timeline is still under discussion.

#### 17.56.1304 Permit Application Review Fees

- Reason: The current fee structure was adopted in 2005. The department has determined that reasonable necessity exists to generally amend the fee rules in (3) to establish sufficient fees to enable the department to effectively operate and implement the federal and state regulatory obligations. This fee proposal is intended to simplify the existing fee structure, apply the fees equitably across the regulated community, provide predictability, be commensurate with costs, and generate sufficient revenue to meet department mandates. The department proposes the change to fees according to the Bureau of Labor and Statistics data showing an inflationary rise since 2005 on a \$100 fee now places that cost at \$161.

#### 17.56.1403 License Categories:

- Reason: The “compliance tester” (f) and “junior installer” (g) were added to license categories to increase the number of licensed personnel who can do minor repairs or tests on underground storage tank systems in accordance with ARM 17.56.401(2) and ARM 17.56.306. ARM 17.56.306 requires testing of spill prevention equipment, containment sumps used for piping interstitial monitoring, and overfill prevention devices to be completed by a licensed installer or compliance inspector. Owners have a difficult time getting licensees out to their locations to make minor repairs and required testing. This delay can result in department violations or even releases where funding eligibility may be denied due to repairs not being done. The addition of these two categories allows for companies to train employees and utilize their skills for limited testing and repairs before they are ready to become a full installer or inspector. The new license categories allow individuals that wish to complete testing and installations specific to the requirements of ARM 17.56.401(2) to obtain a license without the necessary experience required for a full tank installer license or a full third-party compliance inspection license. Some individuals prefer to focus their work on testing and repairs specific to this type of equipment, rather than license as third-party UST compliance inspectors or full UST installers. The amount of work required throughout the state of Montana has increased significantly in testing of spill containment devices, containment sumps, and overfill devices since 2018 when the additional testing mandates were added to the UST regulations.

The addition of “corrosion protection installer” license is proposed for unique situations of UST repair work where a corrosion protection specialist is essential to complete a project. Current regulations require a full installer license to perform specialty corrosion protection work, however this work is often outside the capabilities of a normal UST installer as it requires the specialized skills of a corrosion protection professional.

#### 17.56.1404 LICENSE FEES

- Reason: The current fee structure was adopted in 2005. The department has determined that reasonable necessity exists to generally amend the fee rules in (2)(a) and (2)(b) to establish sufficient fees to enable the department to effectively operate and implement the federal and state regulatory obligations. This fee proposal is intended to simplify the existing fee structure, apply the fees equitably across the regulated community, provide predictability, be commensurate with costs, and generate sufficient revenue to meet department mandates. The department proposes the change to fees according to the Bureau of Labor and Statistics data showing an inflationary rise since 2005 on a \$100 fee now places that cost at \$161. The department also proposes under 17.56.1406(2) to extend the licensing period from one year to three years. This proposal will reduce resource expenditure by the department by reducing the frequency of applicant processing, decrease the paperwork burden on applicants, and provide more accurate information on currently licensed individuals to the public. The department logs very few requests for duplicate licenses and proposes to repeal the fee in (2)(c) as this information already exists in the department database and can be efficiently extracted, with the cost absorbed into initial licensing fees.

#### **17.56.1406 and 1407**

- **Reason: The department proposes under 17.56.1406(2) to extend the licensing period from one year to three years. This proposal will reduce resource expenditure by the department by reducing the frequency of applicant processing, decrease the paperwork burden on applicants, and provide more accurate information on currently licensed individuals to the public.**

### **SECTIONS PROPOSED FOR REPEAL**

#### **17.56.1308 INSPECTION IN LIEU OF LICENCED INSTALLER**

- **Reason: The department proposes repealing ARM 17.56.1308 and 1309 as department liability in providing an inspection is significant and this service is more appropriately provided by a private sector licensed installer. The department also recognizes the limitations of staffing within the program and can contribute a broader range of services to a greater number of stakeholders by eliminating this function. The department proposal to repeal ARM 17.56.1308 eliminates the necessity of 17.56.1309 and renders it obsolete.**

#### **17.56.1409 DUPLICATE LICENSE**

- **Reason: The department proposes the repeal of 17.56.1409 as the department logs very few requests for duplicate licenses and has proposed to repeal the fee in 17.56.1404. This information already exists in the department database and can be efficiently extracted, with the cost absorbed into initial licensing fees.**