



STATE OF NEVADA

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Nevada Division of Environmental Protection Operator Training For Underground Storage Tanks Frequently Asked Questions - FAQs

General Information:

What is Operator Training and why is it required?

“Operator training” is a requirement in the federal Energy Policy Act of 2005 that mandates individuals involved in the operation of a regulated underground storage tank (UST) demonstrate training in the relevant aspects of tank system operation as determined by the implementing agency. Operator training is intended to reduce releases from underground storage tanks that occur as a result of improper operation or maintenance of tank systems due to a lack of knowledge, inexperience, or unfamiliarity with environmental regulations governing UST operation.

As the implementing agency for the UST program in the state of Nevada, the Nevada Division of Environmental Protection (NDEP) is responsible for drafting regulations to develop a state-specific operator training program in accordance with federal laws and guidelines. In brief, the NDEP has structured its operator training program such that records of designated Class A, Class B, and Class C operators shall be retained for review during routine UST compliance inspections or at agency request. Additionally, each operator must demonstrate he or she has completed training for the class of operator for which they are designated.

What tanks are subject to the Operator Training requirements?

All underground storage tanks regulated under NAC 459.9921 to 459.999 (and the federal UST regulations at 40 CFR §§ 280.10 to 280.116 as implemented by the State of Nevada) are subject to operator training requirements. Underground storage tanks excluded by definition from regulation under these authorities are not subject to operator training requirements. These excluded tanks include farm or residential USTs of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes; USTs used for storing heating oil for consumptive use on the premises where stored; septic tanks; flow-through process tanks; and storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

Are aboveground storage tanks subject to operator training requirements?

Aboveground storage tanks, including marina storage tanks as regulated by NAC 459.9921 to 459.999, are not subject to operator training requirements.

What is a Class A, Class B, Class C operator?

Operator training requirements identify three different classes of UST operators, each requiring different types of training. These classes are designated as Class A, Class B, and Class C. A general description of each class of operator is included below:

- Class A: Has primary responsibility to operate and maintain the underground storage tank system. The Class A operator's responsibilities include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements. This individual is generally focused on the statutory and regulatory requirements related to the underground storage tank system.
- Class B: Implements applicable underground storage tank regulatory requirements and standards in the field. This individual implements day-to-day aspects of operating, maintaining, and recordkeeping for release detection, release prevention, and equipment performance for the underground storage tank system.
- Class C: Generally the first line of response to events indicating emergency conditions. This individual is responsible for responding to alarms or other indications of emergencies caused by spills or releases from underground storage tank systems.

Note: The terms Class A, Class B, and Class C operators do not replace the term "operator" as defined by 40 CFR 280.12 or NRS 459.810.

Who should be designated as a Class A, Class B, or Class C Operator?

Generally, the NDEP believes that the owner of a storage tank is the most appropriate individual to be designated as a Class A operator since this individual needs to be knowledgeable about environmental regulations, legal responsibilities, and liability arising from tank operation. As the person responsible for ensuring that a UST complies with environmental regulations and legal requirements (Class A operator) and as the person who ultimately faces liability if the tank is not operating in compliance (the owner), it makes sense for these to be the same individual. Additional examples of Class A operators may include the property owner, lessee of the USTs, regional manager for large commercial operations, etc.

A Class B operator is generally the person who has the most frequent physical interaction with the tank and the monitoring components of the tank. This includes collecting and maintaining release detection records, UST system and monitoring system maintenance/repair records, and day-to-day operation of the tank. Class B operators should be the person or persons who perform this fieldwork and physical tasks rather than a person who oversees or assigns this work. An exception may be an instance where the Class B operator directly supervises (onsite) the monitoring and maintenance of the tank and is ultimately responsible for the quality of those tasks when performed by others. Examples of Class B operators may include owner/lessee of the USTs, an onsite facility manager, maintenance personnel, designated operator, etc.

Typically, a Class C operator will be an onsite employee. This person or persons will respond to an event or alarm which indicates the existence of a spill, release, or other emergency at the site has occurred. After calling the appropriate emergency response personnel and taking actions to mitigate an alarm, spill, or emergency, he or she will contact the Class A or Class B operator. The Class A or Class B operator will report the incident to the appropriate UST implementing agency in accordance with applicable UST regulations. Because the cost of designating and training Class C operators is essentially zero or otherwise negligible, the NDEP recommends that all employees at a facility who may be responsible for emergency shutdown of tanks or making notifications of spills to supervisors/owners be designated and trained as Class C operators.

The NDEP understands that these arrangements of Class A, Class B, and Class C operators may not be universally true and will allow the facility leeway to determine appropriate designations based on their circumstances.

How many UST facilities can an individual be the Designated UST Operator?

The number of tasks that the designated operator is required to perform effectively limits the number of UST facilities for which a designated UST operator can be responsible. Some UST owners/operators may wish to identify several designated UST operators for each of their facilities.

What authorities does the Division have in determining the appropriateness of what operators are designated and the responsibilities of those operators?

The NDEP does not want to dictate or micromanage the designation of operators at a facility and the assignment of job responsibilities for those operators. What may be appropriate for one facility may not be appropriate at others. There is no “one size fits all” approach for the operation and management of underground storage tank facilities, especially given the diversity of facilities operating in the state. The NDEP believes that owners/operators of USTs are in the best position to determine the proper designation of Class A, Class B, and Class C operators and has written its implementing regulations with the maximum flexibility possible for designation. The regulations allow an individual to serve as the designated operator for multiple facilities and also to serve as multiple classes of operator for individual tanks where appropriate. This flexibility allows for efficient designation of operators by large, multiple-facility operations as well as small, family-owned facilities.

However, the NDEP may pursue action against facilities that willfully designate individuals as a Class A, Class B, or Class C operator who do not meet the definition of those operators in the regulation and who do not have involvement in the operation of a tank.

How do I become a trained Class A, Class B, or Class C operator in Nevada?

Those designated as a Class A or Class B operator must participate in an NDEP approved training program. Class C operators may be trained by a Class A or Class B operator, or they may participate in an approved training program. NDEP cannot recommend or endorse any training program over another; however, a list of NDEP approved operator trainers can be found on our website at: http://ndep.nv.gov/bca/ust_training.htm

I live in a rural area and there are no trainers in my area. How do I get operator training?

Some of the NDEP approved training programs are internet-based training, which can be done from a computer in your home. Some trainers may also provide on-site training if requested by a customer over the phone.

Does the designation of an independent contractor as a Class A or Class B Operator shift the liability of noncompliance to that operator and away from the owner of the tank?

No. The operator training program and its implementing regulations do not alter the liability or enforcement structure that the NDEP pursues for UST compliance. All compliance requirements in Nevada statutes and regulations, including the requirements to demonstrate compliance with operator training, are placed on the “owner or operator of an UST.” This structure has not been changed by the adoption of operator training provisions, including the requirement that a Class A, Class B, and Class C operator be designated for all tanks.

Note: Although the use of the term “operator” in both instances may lead to some confusion, the NDEP draws a distinction between an “operator” as defined in NRS 459.810 and a Class A, Class B, or Class C operator that is designated to a facility under the operator training program. The definition of “operator” in NRS 459.810 is “any person in control of, or having responsibility for, the daily operation of a storage tank.” The NDEP can pursue enforcement actions for noncompliance against any owner or any person considered an operator under this definition and is not legally bound by a facility’s designation of who they consider a Class A, Class B, or Class C operator.

How are unmanned facilities, such as card-lock stations or remote emergency generator UST’s affected by the Operator Training requirements?

Although not addressed directly or discussed as a separate type of facility in the regulations, unmanned facilities with regulated USTs are required to comply with all provisions of the operator training requirements, meaning that each UST must have at least one individual designated as a Class A, Class B, and Class C operator and those operators must have appropriate training. Specifically, USTs at unmanned facilities are still required to have a designated Class C operator even though this class of operator is most often assumed to be an on-site employee that can immediately respond to releases, spills, or overfills. However, the NDEP has drafted its operator training regulations and its definition of a Class C operator to allow individuals who perform equivalent response actions remotely or in a timely manner (such as at unmanned facilities) to be designated as Class C operators.

If I place my UST system(s) into temporary closure, am I required to have Class A, B, and C operators designated?

Yes, the facility must still have a Class A, B, and C operator designated; however, all three operator classes may be designated to one person (e.g. owner). The designated operator(s) are not required to be onsite while the UST systems are in temporary closure if the tank systems meet temporary closure requirements outlined in 40 CFR 280.70, are empty (less than one inch of product remains in each tank), and the tank systems do not use an impressed current rectifier to maintain corrosion prevention (voltage and amperage readings must be logged at least every 60-days).

Program Implementation:

How will the Division determine whether operator training requirements have been met?

NDEP requires that an owner designate a Class A, Class B, and Class C operator for each facility and its associated UST(s) on a form approved by the division. This form must be maintained onsite or made available during routine UST compliance inspections or upon the request of an UST compliance inspector. In addition to the designated operator form, documentation that training requirements have been satisfied for each class of operator must be presented with the form. NDEP recommends copies of training documentation are kept with the designated operator form.

Does NDEP have a form to list designated operators?

Yes, NDEP does have a designated operator form. The form is located on our website and can be printed using the following link:

http://ndep.nv.gov/bca/file/designated_operator_form.pdf One form should be completed for each facility that has a regulated UST system.

When do Class A, Class B, and Class C operators have to be trained?

All facilities that have regulated USTs must have a trained designated Class A, Class B, and Class C operator no later than August 8, 2012. After August 8, 2012, any newly designated Class A or Class B operator must be trained within 30 days of their designation. All Class C operators must be trained by a Class A/Class B operator or be trained by an approved third party trainer prior to their designation.

Can a Class A or Class B operator serve as a Class C operator without any additional training?

Yes, a Class A and/or Class B may designate themselves as a Class C operator. Generally, this will apply to facilities where the Class A and/or Class B operator is the only person onsite.

What operator training is acceptable to the division?

State operator training regulations outline three acceptable training methods. The first allows attendance of a training program developed by an independent company or organization approved by the division. These programs may include online training, classroom trainings, examinations, or combinations of each of these methods. NDEP will maintain a list of approved operator trainers on its website at: http://ndep.nv.gov/bca/ust_training.htm

The second operator training method allows an employer to develop a program for employees specific to the company's fueling activities. These programs must also be approved by NDEP and may require that NDEP audit the company's training program. Upon approval, NDEP will list these employer training programs on its website at:

http://ndep.nv.gov/bca/ust_training.htm

The third operator training method allowed by the Division is reciprocity from another State. The operator must demonstrate that he or she has satisfied another State's Class A or Class B operator training requirements and is approved as a Class A or Class B operator within that State. NDEP must also be able to verify that the operator is in "good standing" with the State for which he or she is approved as a Class A or Class B operator.

How will the Division approve operator training courses?

The NDEP solicits training programs from potential operator trainers via its website: http://ndep.nv.gov/bca/ust_training.htm Once an application is received, it is reviewed by UST regulatory staff. NDEP may approve a trainer pending the course content, study materials, method of executing the training, method used by the trainer to evaluate the amount of information learned by the students (examination, practical demonstration, etc.), or any combination of the above listed methods.

How will the Division communicate approved operator trainers to the regulated community?

A list of approved operator trainers is posted online at: http://ndep.nv.gov/bca/ust_training.htm

How often must I retrain to maintain my Class A or Class B operator certification?

NDEP will only require an operator to be retrained if the facility is found to be in significant noncompliance with UST regulations during a routine inspection. NDEP may require the Class A operator or Class B operator or both to be retrained on the duties for which violations were observed.

Enforcement:

What enforcement mechanisms are associated with the operator training requirements?

All operators must have a designated and trained Class A, Class B, and Class C Operator by August 8, 2012. During UST compliance inspections following August 8, 2012, if the designated operator does not have the approved training for his or her operator class, NDEP has the authority to follow the same enforcement path of other UST violations per NRS 459.800 to 459.856. Enforcement actions may include issuing a Finding of Alleged Violation (FOAV) and order, as well as administering civil penalties.

Is retraining considered enforcement action?

No, however if UST compliance is not maintained other legal action may be taken and retraining required.

If a violation is found during a tank inspection, does this automatically result in a retraining requirement?

No. Retraining of designated operators is linked to a facility's overall compliance with UST regulations. Multiple violations, violations that contribute to a release, or prevent/postpone corrective action once a release has occurred may result in Class A and/or Class B retraining. Examples of noncompliance include, but are not limited to failure to conduct leak detection, failure to maintain corrosion systems, failure to report suspected or confirmed releases, or failure to maintain financial responsibility.

If an operator is required to be retrained because of noncompliance for a particular facility, does this put other facilities where that operator has been designated as either a Class A or Class B operator at risk of violations of operator training requirements?

NDEP will generally evaluate each facility independently. If the facility is in general compliance with UST regulations and there is documentation that shows an operator has been designated and trained, the facility will not be in violation of operator training requirements - even if the same operator is designated for another facility that has multiple violations observed and retraining was required.

For Example: Two facilities share a designated operator. One facility is in compliance with UST regulations and the other facility is noted to have multiple UST violations. NDEP will note the second facility as being noncompliant with operator training requirements due to the operator's failure to carry out the responsibilities detailed in the operator training regulations. Retraining of the operator may be required due to the second facility's noncompliance.