

Demonstrating Financial Responsibility

WHAT IS FINANCIAL RESPONSIBILITY?

State and Federal underground storage tank (UST) regulations require that owners and operators of regulated petroleum USTs demonstrate financial responsibility to show they can pay the costs of cleanups and third-party claims for leaks from USTs.

The amount of financial responsibility you must have depends on the type of business you operate, the yearly throughput of each facility, and the number of tanks you own. The following table shows the amounts required:

WHO	THROUGHPUT OF FACILITY	PER	
		OCCURRENCE COVERAGE REQUIRED	AGGREGATE COVERAGE REQUIRED
PETROLEUM MARKETER	ANY THROUGHPUT	\$1,000,000	\$1,000,000 IF YOU OWN 100 OR FEWER TANKS OR \$2,000,000 IF YOU OWN MORE THAN 100 TANKS
PETROLEUM NON-MARKETER	10,000 GALLONS OR LESS MONTHLY	\$500,000	
PETROLEUM NON-MARKETER	MORE THAN 10,000 GALLONS MONTHLY	\$1,000,000	

- Marketing facilities (service stations, truck stops, etc.) must have \$1 million of "per occurrence" coverage. This is the amount that must be available to pay the costs of one petroleum release. Non-marketing facilities must have the same amount of per occurrence coverage unless they have a monthly throughput of 10,000 gallons or less. In this case, the per occurrence coverage amount is \$500,000.
- UST owner/operators must also have coverage for an annual aggregate amount. This is the amount that you must have to cover all leaks that might occur in one year. The amount of aggregate coverage depends on the number of tanks you have: \$1 million if you have 100 or fewer tanks, \$2 million if you have more than 100 tanks.

HOW TO SHOW FINANCIAL RESPONSIBILITY

Owner/operators of regulated petroleum USTs in Utah may show financial responsibility by participating in the Utah Petroleum Storage Tank Trust Fund (PST Fund) or by using one of the other mechanisms allowed by the Federal UST regulations (40 CFR 280, subpart H).

Demonstrating financial responsibility is one requirement for receiving a Certificate of Compliance. If you use a mechanism other than the PST Fund, you must meet all requirements for the mechanism before you receive a certificate.

Petroleum Storage Tank Trust Fund

The PST Fund pays for cleanup costs of covered releases. The responsible party pays the first \$10,000 of eligible cleanup costs and the Fund pays the remaining eligible costs up to the limits set by statute (Section 19-6-419 UCA). Any costs in excess of these limits must be paid by the responsible party.

UST owner/operators who participate in the Fund pay an annual Petroleum Storage Tank Fund fee based on the yearly throughput for each facility and a per-gallon surcharge on petroleum products sold in the state.

Other Financial Responsibility Mechanisms

For those who do not participate in the Fund, the Federal UST regulations allow several options for demonstrating financial responsibility. Each one is described in detail in 40 CFR 280, subpart H. The state UST rules (R311-206-5) have additional requirements. Some of the allowed mechanisms are:

Self-insurance. If your firm has a tangible net worth of at least \$10 million, you can show financial responsibility by passing one of two financial tests.

Insurance coverage. Insurance may be available from a private insurer or a risk retention group.

Guarantee. You may secure a guarantee for the coverage amount from another firm with whom you have a substantial business relationship. The provider of the guarantee must pass a financial test.

Letter of credit. A letter of credit is a contract involving you, an issuer (usually a bank), and a third party (such as the implementing agency) that obligates the issuer to help you demonstrate your financial responsibility.

Trust fund. You may set up a fully-funded trust fund administered by a third party to show financial responsibility.

If you show financial responsibility by one of the allowable alternative mechanisms, you must pay a yearly processing fee and submit documentation of your mechanism each year.

The mechanism you choose must cover costs of both corrective action and third-party liability, and must provide coverage up to the limits specified in 40 CFR 280.93.

Keep In Mind:

- If you use another financial responsibility mechanism, then later decide to participate in the PST Fund, you will be required to perform a tank and line tightness test and a site assessment (including soil and/or groundwater samples) before the tanks can participate in the PST Fund, as specified in the Utah UST Act, Section 19-6-428.
- If you choose to participate in the PST Fund, other tanks located at the same facility, including above-ground tanks and unregulated USTs, may be required to participate.

If you have questions, please contact the DERR UST Section at (801) 536-4100. Forms and additional information are available at www.undergroundtanks.utah.gov.