

R311. Environmental Quality, Environmental Response and Remediation.

R311-200. Petroleum Storage Tanks: Definitions.

R311-200-1. Definitions.

- (1) Terms used in this rule are defined in Section 19-6-402.
- (2) In addition, for purposes of this rule:
- (a) Aboveground petroleum storage tank" or "APST" means a storage tank that is, by volume, less than 10 % buried in the ground, including the pipes connected to the storage tank and:
- (i) has attached underground piping; or
 - (ii) rests directly on the ground;
 - (A) contains regulated substances;
 - (B) has the capacity to hold 501 gallons or more; and
 - (iii) is not:
 - (A) used in agricultural operations~~[as defined by the board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act];~~
 - (B) used for heating oil for consumptive use on the premises where stored;
 - (C) related to a petroleum facility under SIC Code 2911 or 5171 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
 - (D) directly related to oil or gas production, ~~and~~ gathering and transmission operations;~~[or]~~
 - (E) used in the fueling of aircraft or ground service equipment at a commercial airport that serves passengers or cargo, with commercial airport defined in Section 72-10-102.
 - (F) oil filled electrical equipment, including, but not limited to, transformers, circuit breakers, or capacitors;
 - (G) a stationary aboveground storage tank that is installed, rendered immobile, and intended for use on a property for no more than 180 consecutive days;
 - (H) an used oil collection tank regulated under Section 19-6-710;
 - (I) an airport hydrant fuel distribution system at a military facility;
 - (J) any AST that contains a de minimis concentration of regulated substances;
 - (K) an AST used to store liquefied petroleum gases that are not liquid at standard temperature and pressure; or
 - (L) an aboveground hot-oil tank or container that is used to store petroleum products that will be manufactured into asphalt paving material.
- (b) "Actively participated" for the certification programs means that the individual applying for certification must have had operative experience for the entire project from start to finish, whether it be an installation or a removal.
- (c) "Agricultural operation" means any operation on a tract of land devoted to the production of crops, animals, or fowl; fruit or vegetable products; or the production of dairy, nuts, tobacco, nursery, or floral products.
- (d) "As-built drawing" for notification means a drawing to scale of newly constructed PSTs. The PSTs shall be referenced to buildings, streets, and limits of the excavation. The drawing shall show the locations of tanks, product lines, dispensers, vent lines, cathodic protection systems, and monitoring wells. Drawing size must be limited to 8-1/2" x 11" if possible, but shall in no case be larger than 11" x 17".
- (e) "Backfill" means any foreign material, usually pea gravel or sand, which usually differs from the native soil and is used to support or cover the PST system.
- (f) "Certificate" means a document that evidences certification.
- (g) "Certification" means approval by the director or the board to engage in the activity applied for by the individual.
- (h) "Certified environmental laboratory" means a laboratory certified by the Utah Department of Health and Human Services as outlined in Rule R444-14 to perform analyses according to the laboratory methods identified for PST sampling in Subsection R311-205-2(5).
- (i) "Certified sampler" is the person who performs environmental media sampling for compliance with Utah PST rules.
- (j) "Change-in-service" means the continued use of a~~[n]~~ PST to store a non-regulated substance.
- (k) "Claimant" means any person eligible to submit requests for reimbursement of costs against the Petroleum Storage Tank Fund as determined by the director.
- (l) "Community water system" means a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
- (m) "Confirmation sample" means an environmental sample taken, excluding closure samples as outlined in Section R311-205-2, during soil over-excavation or any other remedial or investigation activities conducted to determine the extent and degree of contamination.
- (n) "Consultant" is a person who is a certified PST consultant according to Subsection 19-6-402(7) and Section R311-201-2.
- (o) "Cost Guidelines" refers to the Cost Guidelines for Utah Underground Storage Tank Sites document, dated June 3, 2021. This document contains personnel classifications, requirements, and rates, general tasks and responsibilities for personnel, maximum allowable equipment and laboratory rates, and specific items or activities that will and will not be reimbursed by the Petroleum Storage Tank Fund.
- (p) "Customary, reasonable, and legitimate expenses" means costs incurred during the investigation, abatement, and corrective actions that address a release which are normally charged according to accepted industry standards, and which must be justified in an audit as an appropriate cost. The costs must be directly related to the tasks performed.
- (q) "Customary, reasonable, and legitimate work" means work for investigation, abatement, and corrective action that shall reduce contamination at a site to levels that are protective of human health and the environment. Acceptable levels may be established by risk-based analysis and considering current or probable land use as determined by the director following the criteria in Rule R311-211.
- (r) "Department" means the Utah Department of Environmental Quality.
- (s) "EAP" means the Environmental Assurance Program established in Section 19-6-410.5.
- (t) "Eligible exempt UST" for eligibility for the Petroleum Storage Tank Fund means a tank specified in Subsection 19-6-415(1).
- (u) "Environmental media sample" is a groundwater, surface water, air, or soil sample collected, using appropriate methods, for evaluating environmental contamination.
- (v) "EPA" means the United States Environmental Protection Agency.
- (w) "Expediently disposed of" means disposed of as soon as practical so as not to become a potential threat to human health or safety or the environment, whether foreseen or unforeseen as determined by the director.
- (x) "Fiscal year" means a period beginning July 1 and ending June 30 of the following year.

- (y) "Full installation" for the purposes of Subsection 19-6-411(2) means the installation of a PST.
- (z) "Groundwater sample" is a sample of water from below the surface of the ground collected according to protocol established in Rule R311-205.
- (aa) "Historic contamination" as referenced in Subsections 19-6-428(3)(c) and 19-6-428(3)(d) is petroleum contamination:
- (i) reported after the start of continuous participation in the EAP that has no apparent cause or source and for which the director reasonably determines to have occurred during a period of non-participation; or
- (ii) a release which does not meet the definition of a new release.
- (bb) "Injury or damage from a release" means, for the purposes of Subsection 19-6-409(2)(e), any petroleum contamination that has migrated from the release onto or under a third party's property at concentrations exceeding Initial Screening Levels specified in Subsection R311-211-6(1).
- (cc) "In service" means an PST that is actively storing or dispensing regulated substances.
- (dd) "In use" means that an operational, inactive, or abandoned PST contains a regulated substance, sludge, dissolved fractions, or vapor which may pose a threat to the safety of human health or the environment, as determined by the director.
- (ee) "Lapse" in reference to the certificate of compliance and coverage under the EAP, means to terminate automatically.
- (ff) "Native soil" means any soil that is not backfill material, is naturally occurring, and is most representative of the localized subsurface lithology and geology.
- (gg) "New release" as referenced in Subsections 19-6-428(3)(c) and 19-6-428(3)(d) are releases that occur on or after the start date for continuous participation in the EAP, which the director reasonably determines to have occurred due to an unusual operating condition, an apparent PST system equipment failure, a failed PST test, an overflow, or a surface spill during the time of program participation.
- (hh) "No further action determination" means that the director has evaluated information provided by responsible parties or others about the site and determined that any detectable petroleum contamination from a particular release does not present a threat to public health or the environment based upon board established criteria in Title R311. If future evidence indicates contamination from that release may cause a threat, further corrective action may be required.
- (ii) "Occurrence" in reference to Section R311-208-4 means a separate petroleum fuel delivery to a single tank.
- (jj) "Owners and operators" means either an owner or operator, or both owner and operator.
- (kk) "Over-excavation" means any soil removed in an effort to investigate or remediate in addition to the minimum amount required to remove the PST or take environmental media samples during PST closure activities as outlined in Section R311-205-2.
- (ll) "Permanently closed" means PSTs that are removed from service following guidelines in 40 CFR Part 280 Subpart G ~~adopted~~ incorporated by Rule R311-202.
- (mm) "Petroleum storage tank fee" means the fee which funds the Petroleum Storage Tank Fund as established in Section 19-6-409.
- (nn) "Petroleum Storage Tank Fund" means the Fund created by Section 19-6-409.
- (oo) "Potable drinking water well" means any hole, dug, driven, drilled, or bored, that extends into the earth until it meets groundwater which supplies water for a non-community public water system, or otherwise supplies water for household use, consisting of drinking, bathing, and cooking, or other similar uses. Such a well may provide water to entities such as a single-family residence, group of residences, businesses, schools, parks, campgrounds, and other permanent or seasonal communities.
- (pp) "PST" means petroleum storage tank as defined in Subsection 19-6-402(21).
- (qq) "PST inspection" is the inspection required by state and applicable federal underground storage tank rules and regulations during the installation, testing, repairing, operation or maintenance, and removal of regulated PSTs.
- (rr) "PST installation" means the installation of a PST, including any component that is critical to:
- (i) the integrity of the system;
- (ii) protection of the environment; and
- (iii) qualifying for a certificate of compliance.
- (ss) "PST testing" means:
- (i) a testing method which can detect leaks in a PST system;
- (ii) testing for compliance with corrosion protection requirements;
- (iii) testing or inspection for proper operation of overflow prevention devices and electronic or mechanical leak detection components;
- (iv) any testing requirements for exempt USTs or aboveground storage tanks that voluntarily participate in the EAP; or
- (v) testing methods that meet applicable performance standards:
- (A) 40 CFR 280.40(a)(4), 280.43(c), and 280.44(b) for tank and product piping tightness testing;
- (B) 40 CFR 280.35(a)(1)(ii) for testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping;
- (C) 40 CFR 280.31(b) for cathodic protection testing;
- (D) 40 CFR 280.35(a)(2) for overflow device inspection;
- (E) 40 CFR 280.40(a)(3) for testing of mechanical and electronic release detection components; and
- (F) interstitial testing for tank and piping secondary containment.
- (tt) "Public water system" means a system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. It includes any collection, treatment, storage, and distribution facilities under control of the operator of the system and used primarily in connection with the system; and, any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.
- (uu) "Registration fee" means PST registration fee.
- (vv) "Related parties" for the purposes of Section R311-207-4, means organizations or persons related to the consultant by any of the following: marriage; blood; one or more partners in common with the consultant; one or more directors or officers in common with the consultant; more than 10% common ownership direct or indirect with the consultant.
- (ww) "Reportable release" means a spill, overflow, leak, discharge, leachate, or disposal of a regulated substance that results in a release to the environment.
- (xx) "Rests directly on the ground" means that at least some portion of a PST situated aboveground is in direct contact with soil.
- (yy) "Secondary containment"

(i) for the purposes of Rule R311-202 and Section R311-203-6, means a release prevention and detection system for a tank or piping that has an inner and outer barrier with an interstitial space between them for monitoring. The monitoring of the interstitial space must meet the requirements of 40 CFR 280.43(g).

(ii) for the purposes of Subsection R311-206-4(6), means a dike, vault, enclosure, berm, double-walled system, or any other barrier that meets the secondary containment standards listed in the International Fire Code (IFC) 2306.5 and 5704.2.10.

(zz) "Site assessment" or "site check" is an evaluation of the level of contamination at a site which contains or has contained a PST.

(aaa) "Site assessment report" is a summary of relevant information describing the surface and subsurface conditions at a facility following any abatement, investigation or assessment, monitoring, remediation or corrective action activities as outlined in Rule R311-202, incorporating 40 CFR 280 Subparts E and F.

(bbb) "Site investigation" is work performed by the owner or operator, or their designee, when gathering information for reports required for Utah PST rules.

(ccc) "Site plat" for notification or reporting, refers to a drawing to scale of PSTs in reference to the facility. The scale should be dimensioned appropriately. Drawing size shall be limited to 8-1/2" x 11" if possible, but must in no case be larger than 11" x 17". The site plat should include the following: property boundaries; streets and orientation; buildings or adjacent structures surrounding the facility; present or former PSTs; extent of any excavations; location and volume of any stockpiled soil; locations, depths, and analytical results of all environmental media samples collected; locations and total depths of borings or permanent wells, or other measurement or data points; type of ground-cover; utility conduits; local land use; surface water drainage; and other relevant features.

(ddd) "Site under control" means that the site of a release has been actively addressed by the owner or operator who has taken the following measures:

(i) fire and explosion hazards have been abated;

(ii) free flow of the product out of the tank has been stopped;

(iii) free product is being removed from the soil, groundwater, or surface water according to a work plan or corrective action plan approved by the director, except as allowed by Subsections 19-6-420(3)(b) and 19-6-420(6);

(iv) alternative water supplies have been provided to affected parties whose original water supply has been contaminated by the release; and

(v) a soil or groundwater management plan or both have been submitted for approval by the director.

(eee) "Soil" as referenced in Subsection 19-6-402(28) means natural earthen material under which there is no secondary containment.

(fff) "Soil sample" is a sample collected following the protocol established in Rule R311-205.

(ggg) "Surface water sample" is a sample of water, other than a groundwater sample, collected according to protocol established in Rule R311-205.

(iii) "Suspected release" means a release that may have occurred from a regulated PST system, for example: petroleum contamination discovered at the PST site or in the surrounding area; unusual operating conditions of the PST system; release detection methods indicating a release may have occurred; inventory control records indicating unexplained product loss; or, a spill or overfill that occurs outside secondary containment and exceeds 25 gallons.

(hhh) "Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials, such as concrete, steel, or plastic, that provide structural support.

(iii) "Third-party Class B operator" is any individual who is not the facility owner or operator, or an employee of the owner or operator and who, by contract, provides the services outlined in Subsection R311-201-12(7).

(jjj) "Under-dispenser containment," for the purposes of Section R311-203-6, means containment underneath a dispenser that will prevent leaks from the dispenser or transitional components that connect the piping to the dispenser, check valves, shear valves, unburied risers or flex connectors, or other components that are beneath the dispenser, from reaching soil or groundwater.

(kkk) "UST inspector" is an individual who performs PST inspections for compliance with state and federal rules and regulations as authorized in Subsection 19-6-404(2)(c).

(lll) "UST installation" means the installation of [am] a PST, including construction, placing into operation, building, or assembling [am] a PST in the field. It includes any operation that is critical to the integrity of the system and to the protection of the environment, which includes:

(i) pre-installation tank testing, tank site preparation including anchoring, tank placement, and backfilling;

(ii) vent and product piping assembly;

(iii) cathodic protection installation, service, and repair;

(iv) internal lining;

(v) secondary containment construction; and

(vi) UST repair and service.

(mmm) "UST installation permit fee" means the fee established by Subsection 19-6-411(2)(a)(ii).

(nnn) "UST installer" means an individual who engages in PST installation.

(ooo) "UST removal" means the removal or permanent closure of a PST system by taking out of service all or part of a PST system.

(ppp) "UST remover" means an individual who engages in PST tank removal.

(qqq) "UST tester" means an individual who engages in PST testing.

KEY: petroleum, underground storage tanks

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R311. Environmental Quality, Environmental Response and Remediation.

R311-202. Federal Underground Storage Tank Regulations.

R311-202-1. Incorporation by Reference.

(1) This rule incorporates by reference 40 CFR Part 280, the federal underground storage tank regulations, in effect as of October 13, 2015, except that:

(~~1~~)a) 40 CFR 280 Subpart J is not incorporated by reference;

(~~2~~)b) the definitions of Class A operator, Class B operator, Class C operator, and Training program in 40 CFR 280.12 are not incorporated by reference;

(~~3~~)c) [~~F~~]the date October 13, 2015 in 280.10(a)(1)(ii), 280.10(a)(1)(iii), 280.20(c)(3), 280.35(b)(1), 280.35(b)(2), 280.42(a) note, 280.42(e), 280.45(a), 280.251(a)(1), 280.251(a)(2), 280.251(b), 280.252(b), 280.252(e), 40 CFR Part 280 appendix 1, and 40 CFR Part 280 appendix 2 is, in each instance, changed to January 1, 2017; and

(~~4~~)d) [~~F~~]the date April 11, 2016 in 280.20, 280.20(f), 280.41(a)(1), 280.41(a)(2), 280.41(b)(1), and 280.41(b)(2) is, in each instance, changed to January 1, 2017.

(2) Owners or operators of APSTs must follow the requirements and standards as set forth in 40 CFR Part 280 Subparts E, F, and H.

(a) Any references in these Subparts to USTs, UST systems, UST owners or operators, UST excavation zones, UST program, UST release, or UST sites also apply to APSTs.

(b) Releases of hazardous substances, as referenced in 40 CFR 280.12, from ASTs are not subject to Subsection R-311-202-1(2)(a).

KEY: hazardous substances, petroleum, underground storage tanks

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R311. Environmental Quality, Environmental Response and Remediation.

R311-206. Petroleum Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms.

R311-206-1. Definitions.

Definitions are found in Rule R311-200.

R311-206-2. Declaration of Financial Assurance Mechanism.

(1) To demonstrate financial assurance, as required by Section 19-6-412 and Subsection 19-6-407(2)(c), owners or operators of petroleum storage tanks must:

(a) declare they will participate in the EAP and meet the requirements for participation in the EAP under Sections 19-6-410.5, 19-6-428 and R311-206-4; or

(b) demonstrate financial assurance that meets the coverage amounts specified in 40 CFR 280.93, by an allowable method specified in Section R311-206-5.

(2) For the purposes of Subsection 19-6-412(6), tanks at a facility must be covered by the same financial assurance mechanism, and must be considered to be in one area, unless the director determines there is sufficient information so that releases from different tanks at the facility could be accurately differentiated.

R311-206-3. Requirements for Issuance of Certificates of Compliance.

(1) The director shall issue a certificate of compliance to an owner or operator for individual petroleum storage tanks at a facility if:

(a) the owner or operator has a certificate of registration;

(b) the owner or operator must certify that the PST is in substantial compliance with state and federal statutes, rules, and regulations applicable to PST systems;

(i) APSTs using the EAP for financial responsibility, the owner or operator may meet the requirements outlined in Subsection R311-206-4(6).

(c) the tank tightness test, as required by Section 19-6-413 conducted within six months before the tank was registered or within 60 days after the date the tank was registered, indicates that each individual PST is not leaking;

(d) the owner or operator has submitted a letter to the director stating that based on customary business inventory practices standards there has been no release from the tank;

(e) the owner or operator has submitted a completed application according to a form provided and approved by the director, and participates in the EAP or demonstrates that the financial assurance that will be used meets the requirements of Subsection R311-206-2(1)(b) and Section R311-206-5~~[demonstrated the financial assurance mechanism that will be used]~~;

(f) the owner or operator has met the requirements for the financial assurance mechanism chosen, including payment of applicable fees;

(g) the owner or operator has submitted an as-built drawing, for newly-installed systems, that meets the requirements of Subsection R311-200-1(2)(d) or a site plat, for existing systems, that meets the requirements of Subsection R311-200-1(2)(ccc); and

(h) the owner or operator has, for newly-installed tanks, submitted the completed tank manufacturer's installation checklist.

R311-206-4. Requirements for Environmental Assurance Program Participants.

(1) In accordance with Subsection 19-6-411(1)(a), the annual facility throughput rate, if reported, shall be reported to the director as a specific number of gallons, based on the throughput for the previous calendar year.

(2) In accordance with Subsection 19-6-411(1)(b), when a petroleum storage tank is initially registered with the director, any petroleum storage tank fee for that tank for the current fiscal year is due when the tank is brought into use, as a requirement for receiving a certificate of compliance.

(3) In accordance with Subsection 19-6-411(2)(a)(i), if an installation company receives its annual permit after the beginning of the fiscal year, the annual fee must be paid for the entire year.

(4) Auditing of PST facility throughput records.

(a) owners and operators must retain for seven years the monthly tank throughput records of the facility.

(b) tank throughput records shall include financial and product documentation for receipts, deliveries, transfers, and inventories.

(c) the director may audit or commission an audit, by an independent auditor, of records which support the amount of throughput, for each tank at a participant's facility.

(i) records must be made available at the department for inspection within 30 calendar days after receiving notice from the director.

(ii) audits may be determined by random selection or for particular reasons, including suspicion or discovery of inaccuracies in throughput reports, aggregating throughput reports, having a release, or filing a claim.

(iii) auditing tank throughput may be accomplished by any method approved by the director.

(iv) costs of an independent audit shall be paid by the owner or operator.

(5) Owners or operators eligible for participation in the EAP must demonstrate financial assurance for the difference between coverage provided by the EAP and coverage amounts required by 40 CFR 280 Subpart H.

(a) if the owner or operator chooses self-insurance as the mechanism for demonstrating financial assurance for the difference, they must document a tangible net worth of \$10,000 upon request and to the satisfaction of the director.

(i) the director may require the owner or operator to submit an independent audit to demonstrate net worth for self-insurance.

(A) the owner or operator will bear the expense for the audit.

(B) the criteria for an audit are the same as set forth in Subsection R311-206-4(4)(b).

(b) an owner or operator may also select and document another mechanism specified in 40 CFR 280.94 to demonstrate financial assurance for the difference.

(c) the processing fee requirement referenced in Subsection R311-206-5(2) is not applicable because the administrative cost is covered by the EAP fee.

(6) For a facility with an APST using the EAP for financial responsibility, the director shall issue a certificate of compliance to an owner or operator for individual APSTs, if:

(a) before July 1, 2026, the owner or operator:

(i) documents compliance with spill prevention equipment requirements and submits a spill prevention equipment test; and

(ii) documents compliance with applicable leak detection and testing requirements outlined in Section R311-203-5.

(b) on or after July 1, 2026, the owner or operator:

- (i) if applicable, documents compliance with cathodic protection requirements and submits a cathodic protection test, if required by Subsection R311-203-5(10)(d) indicating that the cathodic protection system is functioning properly;
- (ii) documents compliance with overfill prevention requirements and submits an overfill prevention equipment inspection per Subsection R311-203-5(10)(e);
- (iii) documents compliance with automatic line leak detector and submits an automatic line leak detector test, if required by Subsection R311-203-5(10)(f), indicating that each individual automatic line leak detector is functioning properly; and
- (iv) documents compliance with APST secondary containment requirements as outlined in International Fire Code 2306.5 & 5704.2.10 referenced in the Utah State Fire Code pursuant to Section 15A-5-103.

R311-206-5. Requirements for Owners and Operators Demonstrating Financial Assurance by Other Methods.

(1) Owners and operators who elect to utilize an alternate form of financial assurance must meet the minimum coverage amounts using one or a combination of mechanisms as outlined in 40 CFR 280.94.

(a) owners and operators must submit to the director the documents required by 40 CFR 280.111 to be kept and maintained for the mechanism used.

(b) formats, calculations, letters, reporting, and record keeping shall be done in accordance with each applicable financial assurance mechanism specified in 40 CFR 280 subpart H.

(c) if the financial assurance documentation submitted to the director is not in accordance with 40 CFR 280 subpart H, it shall be rejected and shall be invalid.

(2) The processing fee established in Subsection 19-6-408(2) for each new or changed financial assurance document submitted for approval shall be included with the financial assurance document and shall be payable to the Department.

(a) processing fees for subsequent reviews of financial assurance documents are due on July 1 of the fiscal year for which the review is required.

(b) pursuant to 40 CFR 280.97, if the financial assurance mechanism is an insurance policy, the insurer is liable for payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third party, with right of reimbursement by the insured for such payment made by the insurer.

(i) this provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 40 CFR 280.95 through 280.102 and 280.104 through 280.107.

(ii) a showing of financial assurance for the deductible, if such a showing is made, shall be treated as a separate financial assurance mechanism subject to the processing fee requirement referenced in Subsection R311-206-5(2).

(c) if an owner or operator desires to make any material change to the financial assurance document, the change shall be approved by the director, and an additional processing fee shall be paid in circumstances as determined by the director.

(3) Evidence of a current and approved financial assurance mechanism must be reported to the director as follows:

(a) owners and operators using the financial test of self-insurance must submit the "Letter from Chief Financial Officer" to the director within the maximum 120-day period specified in 40 CFR 280.95.

(b) owners and operators using insurance and risk retention group coverage for financial assurance must submit the coverage policy in its entirety, with the current Certificate of Insurance or Endorsement specified in 40 CFR 280.97(b), to the director within 30 days of acceptance of such policy by the insurer or risk retention group.

(i) if the insurance policy or risk retention group coverage is canceled, the insurer or risk retention group shall provide written notice of cancellation or other termination of coverage required by 40 CFR 280.97(b)(1)2.d. and 280.97(b)(2)2.d. to the director as well as the insured.

(ii) the insurer must have a rating of A- or greater by A.M. Best Co.

(c) owners and operators using an irrevocable letter of credit must submit proof of the letter of credit, standby trust fund, and formal certification of acknowledgement to the director within 30 days of issuance from the issuing institution.

(d) owners and operators using a fully funded trust fund for financial assurance must submit proof of the trust fund and formal certification of acknowledgement to the director within 30 days after implementation of the trust fund.

(e) owners and operators using a guarantee for financial assurance shall submit the Guarantee document, standby trust fund, and certification of acknowledgement to the director within 30 days of issuance.

(i) the owner or operator must also submit the guarantor's letter from the chief financial officer within the 120-day period specified in 40 CFR 280.95.

(f) owners and operators using a surety bond for financial assurance must submit the surety bond document, standby trust fund, and certification of acknowledgement to the director within 30 days of issuance.

(g) guarantees and surety bonds may be used as financial assurance mechanisms in Utah only if the requirement of 40 CFR Part 280.94(b) is met.

(h) owners and operators using one of the local government methods specified in 40 CFR 280.104 through 280.107 must submit the letter from the chief financial officer and associated documents to the director within 120 days of the end of the owner, operator, or guarantor's fiscal year.

(4) The director may require reports of financial condition or any other information relative to justification of the financial assurance mechanism from the owner or operator at any time.

(a) information requested must be reported to the director within 30 calendar days after receiving the request.

(b) owners and operators must maintain evidence of all financial assurance mechanisms as specified in 40 CFR 280.111.

(c) owners and operators must keep records of all financial assurance mechanisms in accordance with 40 CFR 280.111 and 280.113.

(d) the director may audit or commission an audit of records supporting the financial assurance mechanism at any time.

(i) audits may be determined by random selection or for specific reasons, including the occurrence of a release or suspected release, deficiencies in complying with regulations or orders, or the suspicion or discovery of inaccuracies.

(ii) auditing of financial assurance methods may be accomplished by any method approved by the director.

(5) Any costs of securing a selected financial assurance mechanism and generating and providing the necessary reporting evidence of an assurance mechanism to the director is the sole responsibility of the owner or operator.

(6) Processing of the alternate financial assurance mechanism documents may be accomplished utilizing any method approved by the director.

R311-206-6. Voluntary Admission of Eligible Exempt Underground Petroleum Storage Tanks and Eligible Exempt Aboveground Storage Tanks Containing Petroleum to the Environmental Assurance Program.

- (1) Owners or operators of eligible exempt USTs specified in Subsection 19-6-415(1)(a) may voluntarily participate in the EAP by:
 - (a) performing a site check in accordance with Rule R311-205;
 - (b) meeting the requirements of Subsections 19-6-428(3)(a), 19-6-415(1) and R311-206-3(1);
 - (c) properly performing release detection according to the requirements of 40 CFR Part 280 Subpart D; and
 - (d) meeting the upgrade requirements in 40 CFR 280.21 or the new tank requirements in 40 CFR 280.20, as applicable.
- (2) Owners or operators of eligible exempt aboveground storage tanks containing petroleum may voluntarily participate in the EAP by:
 - (a) performing a site check in accordance with Rule R311-205; and
 - (b) meeting the requirements of Subsections 19-6-415(2) and 19-6-428(3)(a), and Sections R311-206-3 and R311-206-4.

R311-206-7. Revocation and Lapsing of Certificates.

(1) The director shall revoke a certificate of compliance or registration if the director determines that the owner or operator has willfully submitted a fraudulent application or is not in compliance with any requirement pertaining to the certificate.

(2) A PST owner or operator who has had a certificate of compliance revoked under Section 19-6-414 or Subsection R311-206-7(1) may have the certificate reissued by the director after the owner or operator demonstrates compliance with Subsections 19-6-412(2), 19-6-428(3), and Section R311-206-3.

(3) A PST owner or operator who has had a certificate of compliance lapse under Subsection 19-6-408(5)(c) may have the certificate reissued by the director after the owner or operator demonstrates compliance with Sections 19-6-412 and R311-206-3.

(4) A PST owner or operator who has had eligibility to receive payments for claims against the fund lapse under Subsection 19-6-411(3)(c)(ii) must:

- (a) meet the requirements of Subsection 19-6-428(3); and
- (b) pay fees, interest, and penalties due to reinstate eligibility.

(5) Upon permanent closure of a tank which is covered by the Petroleum Storage Tank Fund, the eligibility to make a claim against the Petroleum Storage Tank Fund will terminate as specified in Section R311-207-2.

(a) permanently closed tanks are not eligible to be reissued a certificate of compliance.

(6) In accordance with Section 19-6-414, the director may revoke a certificate of compliance for the owner's or operator's failure to comply with the following requirements as outlined in 40 CFR 280:

- (a) release reporting;
- (b) abatement;
- (c) investigation;
- (d) corrective action; or
- (e) other measures to bring the release site under control.

R311-206-8. Delivery Prohibition.

(1) In accordance with Subsection 19-6-411(7) and 19-6-407(2)(d)(ii), the director shall authorize the placement of a delivery prohibition tag identifying a tank:

- (a) for which the certificate of compliance has been revoked in accordance with Section 19-6-414;
- (b) for which the certificate of compliance has lapsed for non-payment of fees in accordance with Subsection 19-6-408(5);
- (c) that has never qualified for a certificate of compliance, and is not a new installation under Subsection R311-206-8(1)(d); or
- (d) that is a new installation, and has not been issued a certificate of compliance.

(2) For USTs, in accordance with Subsection 19-6-403(1)(b)(i), the director shall authorize the placement of a delivery prohibition tag to be placed on the UST as soon as practicable after the determination is made that a tank does not have:

- (a) spill prevention equipment required under 40 CFR 280.20(c) or 280.21(d);
- (b) overfill prevention equipment required under 40 CFR 280.20(c) or 280.21(d);
- (c) equipment required for tank or piping leak detection in accordance with 40 CFR 280 Subpart D; or
- (d) equipment required for tank or piping corrosion protection in accordance with 40 CFR 280 Subpart B or C.

(3) For APSTs, the director shall authorize the placement of a delivery prohibition tag to be placed on the APST as soon as practicable after the determination that the APST was not in service after May 5, 2021.

(4) The delivery prohibition tag shall be placed on the tank fill or in a visible location near the tank fill.

(5) A person who delivers or accepts delivery of a regulated substance or petroleum into a tank marked with a delivery prohibition tag shall be subject to the penalties outlined in Section 19-6-416, unless authorized under Subsection R311-206-8(5).

(6) The director may issue written approval for a delivery of petroleum to:

- (a) provide ballast for a new tank during installation, or
- (b) allow for the tank tightness test required under Section 19-6-413.

(7) The delivery prohibition tag must remain in place until the director issues:

- (a) for tanks that have a tag in place in accordance with Subsection R311-206-8(1):
 - (i) a new certificate of compliance for the tank; and
 - (ii) written authorization to remove the delivery prohibition tag; or

(b) for tanks that have a tag in place in accordance with Subsection R311-206-8(2):

- (i) written authorization to remove the delivery prohibition tag.

(8) If a delivery prohibition tag is removed without the authorization specified in Subsection R311-206-8(6)(a)(ii) or R311-206-8(6)(b)(i), the PST owner or operator is subject to:

- (a) a re-inspection and any applicable fees; and
- (b) placement of a new delivery prohibition tag on the tank.

R311-206-9. Removing Participating Tanks from the Environmental Assurance Program.

(1) Owners and operators of PSTs who have voluntarily elected to participate in the EAP may cease participation in the EAP and be exempted from the requirements described in Section R311-206-4 by:

(a) permanently closing tanks as outlined in 40 CFR 280, subpart G and Rules R311-204 and R311-205; or
(b) meeting the following requirements:
(i) demonstrating compliance with Section R311-206-5; and
(ii) notifying the director in writing at least 30 days before the date of cessation of participation in the EAP, and specifying the date of cessation.

(A) the director may waive the 30-day requirement if the owner or operator has already documented current financial assurance under Section R311-206-5 for other petroleum storage tanks owned or operated by the owner or operator.

(B) the date of cessation of participation in the EAP may occur after the date designated in Subsection R311-206-9(1)(b)(ii) if the owner or operator does not document compliance with Section R311-206-5 by the date originally designated.

(2) prorata refunds will not be given.

(3) For tanks being removed voluntarily from the EAP, the date of cessation of participation in the EAP shall be the date on which coverage under the EAP ends.

(a) subsequent claims for payments from the Petroleum Storage Tank Fund must be made in accordance with Sections 19-6-424 and R311-207-2.

(4) For any facility that participates in the EAP and is sold to a company with facilities that do not participate in the EAP, the date of termination of coverage is the closing date for the real estate transaction.

(a) the purchaser shall provide documentation of the closing date to the director within 30 days of closing.

R311-206-10. Participation in the Environmental Assurance Program After a Period of Non-participation.

(1) Owners and operators not participating in the EAP must, before any subsequent participation in the EAP, meet the following requirements:

(a) notify the director of the intent to participate in the EAP;

(b) comply with the requirements of Subsection 19-6-428(3); and

(c) meet the requirements of Section R311-206-3 to qualify for a new certificate of compliance.

R311-206-11. Environmental Assurance Fee Rebate.

(1) To meet the requirements of Subsection 19-6-410.5(5)(d), for each UST Facility participating in the EAP, a risk value will be calculated according to the "Environmental Assurance Program Risk Factor Table and Calculation," which is incorporated by reference.

(a) the table, dated June 2, 2014, contains risk factors and the formula for risk value calculation.

(2) The risk value for each facility participating in the EAP shall be:

(a) calculated on a facility basis;

(b) valid for the calendar year;

(c) based on the facility characteristics as of December 15 of the prior calendar year; and

(d) determined, at sites with mixed equipment, by considering the highest risk-valued petroleum storage tank system component for each risk factor.

(3) To qualify as secondarily contained for purposes of risk calculation, tanks shall:

(a) meet the requirements for secondary containment in 40 CFR 280.20; and

(b) meet one of the following:

(i) use an interstitial sensor and documentation of monthly interstitial monitoring; or

(ii) documentation of monthly visual checks of a brine-filled interstitial space.

(4) To qualify as secondarily contained for purposes of risk calculation, piping shall:

(a) meet the requirements for secondary containment outlined in 40 CFR 280.20; and

(b) meet one of the following:

(i) maintain monthly records of monitoring of the interstice by vacuum, pressure, or liquid filled interstitial space, or

(ii) use an interstitial monitoring method not listed in Subsection R311-206-11(4)(b)(i).

(5) To qualify as secondarily contained for purposes of risk calculation, piping containment sumps, and under-dispenser containment shall be double-walled with monthly documentation of monitoring of the space between the walls.

(6) Each facility that participates in the EAP may be eligible for a rebate of a portion of the Environmental Assurance Fee according to the rebate schedule in "Environmental Assurance Fee Rebate Table," dated June 2, 2014, which is incorporated by reference.

(7) A facility that begins participation in the EAP after January 1 of a calendar year shall have its risk value calculated for that year based on the risk factors in place at the facility on the date the facility begins participation in the EAP.

(8) The Environmental Assurance Fee rebate does not apply to APSTs until July 1, 2026 as per Subsections 19-6-410.5(5)(d) and 19-6-410.5(5)(e).

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