

UTAH TANK NEWS

Winter 2023

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Published by the
Utah Department of
Environmental Quality

Kim Shelly
Executive Director

Division of Environmental
Response and Remediation

Petroleum Storage Tank Branch

Brent H. Everett
Division Director

Therron Blatter
Branch Manager

Mark Crim
Utah Tank News Editor



Aboveground Petroleum Storage Tank Financial Responsibility and Certificate of Compliance Requirements

By Morgan Atkinson

Introduction

Due to legislation passed in the 2021 session, the DERR began regulating specific types of aboveground petroleum storage tanks (APSTs) on May 5, 2021. By statute (19-6-407(2), owners of regulated APSTs must notify the Director of their location via the "Utah Notification for Aboveground Petroleum Storage Tanks" form.

Upon notification, a processing fee of \$250 shall be assessed to the owner. By June 30, 2023, APST owners must demonstrate financial responsibility and obtain a Certificate of Compliance. Regulated APSTs that do not register and obtain a Certificate of Compliance by June 30, 2023, will also be subject to enforcement actions, penalties and delivery prohibition.

In order to qualify for a certificate of compliance, the owner must submit the following (R311-206-4):

1. Payment of annual registration fee [\$110 per tank or \$220 if not participating in the Environmental Assurance Program (EAP)]
2. Payment of annual PST fund fee if participating in the EAP [\$150 per tank, or \$450 per tank if you don't submit annual throughput or if your annual throughput is less than 70,000 gallons];
3. Certificate of Compliance Application;
4. Previous Pollution Incident form;
5. Financial Responsibility Declaration
6. Tank Tightness Test(s) performed in the last six months;
 - **Refer to the Steel Tank Institute (STI) R912 Reference Document for testing procedures.**
7. Line Tightness Test(s) performed in the last six months;
8. Spill Bucket Test(s) performed in the last six months;

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9. As-built drawing or site plat to scale, with north arrow;
10. Site assessment for sites participating in the EAP;
 - If the APSTs are regulated, a site assessment is **not required**.
New releases from a documented, known source are 100% covered starting day one of participation. Historic contamination discovered after 10-years of continuous coverage will also be 100% covered.
 - Non-regulated APSTs **must** perform a site assessment (historic impacts are not covered).

Note: Overfill, cathodic protection, and line leak detector tests will be required by owners participating in the Environmental Assurance Program starting 7/1/2026.

APST Tightness Testing Requirements

Accepted Tests

For any APST:

- A Precision Tightness Test completed by a DERR-certified tester

Or

For APSTs not in contact with the soil:

- Visual inspection
- Steel Tank Institute's (STI), STI 001 Annual Inspection Checklist, completed by a qualified third-party such as a DERR-certified tester, an STI 001-certified inspector, or a P.E. with applicable knowledge

For APSTs in contact with the soil:

- Test the tank per STI's Technical Bulletin-R912, Shop Fabricated Stationary Aboveground Storage Tanks for Flammable, Combustible Liquids- INSTALLATION INSTRUCTIONS



Financial Responsibility Requirements for Aboveground Petroleum Storage Tanks

By Morgan Atkinson

Recent updates to the Petroleum Storage Tank rules (R311), did not explicitly state the amount and scope of required financial responsibility for aboveground petroleum storage tanks (APSTs). The DERR is currently working on a rule change, likely to go out for public comment in February 2023, that will incorporate 40 CFR 280, Subpart H, as applicable to APSTs and require the coverage amounts to be the same as the Federal requirement for Underground Storage Tanks. Specifically, **40 CFR 280.93** defines the **Amount and Scope of Required Financial Responsibility** as follows:

(a) Owners or operators of petroleum underground storage tanks must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following per-occurrence amounts:

(1) For owners or operators of petroleum underground storage tanks that are located at petroleum marketing facilities, or that handle an average of more than 10,000 gallons of petroleum per month based on annual throughput for the previous calendar year; \$1 million.

(2) For all other owners or operators of petroleum underground storage tanks; \$500,000.

(b) Owners or operators of petroleum underground storage tanks must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following annual aggregate amounts:

(1) For owners or operators of 1 to 100 petroleum underground storage tanks, \$1 million; and

(2) For owners or operators of 101 or more petroleum underground storage tanks, \$2 million.

Subparts (c) through (h), also found in 40 CFR-280.93, are included in the Amount and Scope of Required Financial Responsibility, providing additional information about certain scenarios, and allowed financial mechanisms for compliance.

Note: Voluntary participation in the Utah's Environmental Assurance Program meets the Financial Responsibility requirements and provides double the mandatory coverage amounts. Additional details for participation requirements and fees can be found online at [Tanks.Utah.gov](https://www.tanks.utah.gov).

What Types of Aboveground Petroleum Storage Tanks are Regulated?

By Mark Crim

Because of the new aboveground petroleum storage tank (APST) law, the Release Prevention and Compliance Section has been writing new rules to accommodate APSTs into the underground storage tank (UST) program, taking the rules through public comment, and to the Waste Management and Radiation Control Board for adoption. Although many of the new APST regulations mirror the UST program, the new rules combine the regulatory scope for both kinds of petroleum storage tank systems. The goals of the program are the same; notification of regulated systems, release prevention, and establishing that financial mechanisms to respond to petroleum spills are available. That being said, the sphere of aboveground storage tanks (ASTs) are defined as being regulated by DERR, or exempt from regulation.

ASTs that are exempt include:

- Commercial Airport fueling operations
- Farm and Agriculture operations
- Petroleum Distributor/Refiner (SIC Code 2911 or 5157)
- Oil or Gas Production and Gathering
- Heating Oil used on premises
- ASTs less than 501 gallons

ASTs that are regulated include:

- ASTs resting on soil (including gravel)
- ASTs with any portion of piping that is buried or touching soil (including gravel)
- Vaulted USTs with any portion of piping that is buried or touching soil (including gravel)

To learn more, please visit ASTnotice.utah.gov, or call 801-536-4100.



The First LUST Trust Site in the Nation Has Closed

By Avery Holyoak

In November 2022, the Division of Environmental Response and Remediation (DERR) issued a No Further Action (NFA) letter for the former La Sal Oil Company, leaking underground storage tank (LUST) release located in Moab, Utah. This site was the first cleanup in the nation funded by the federal LUST Trust Fund, following the Fund's creation in 1986 by the United States Congress. The LUST Trust Fund provides monies to oversee cleanups of petroleum releases by responsible parties, enforce cleanups by recalcitrant parties, and pay for cleanups at sites where the owner or operator is unknown, unwilling, or unable to respond, or which require emergency actions. The funding is also used to conduct inspections and other release prevention activities, and is financed by a 0.1 cent tax on each gallon of motor fuel sold nationwide.

In February 1987, Federal assistance was requested for the La Sal site by the Utah Bureau of Solid and Hazardous Waste (precursor to the Department of Environmental Quality and the DERR's Petroleum Storage Tank program). The first assistance agreement was finalized February 1988. The Environmental Protection Agency (EPA) took initial emergency response actions, following reports of petroleum vapors in residences. Gasoline from the release also impacted the Pack Creek and Kane Creek confluence where the riverbank caught on fire multiple times. Free product removal along with ventilation for affected buildings and air stripping systems for release mitigation began in 1988 and continued through the 1990s. Periodic groundwater monitoring took place for over 30-years. An additional site-wide investigation was completed in 2014 to confirm cleanup effectiveness. This was followed by multiple rounds of enhanced remediation, using oxygen-releasing compounds/nutrient injection, that helped to remove residual impacts. Between the State of Utah and the EPA, over \$1 million was spent addressing this release. Cost recovery and litigation between the EPA, responsible parties, and affected third parties continued for many years.

After active remediation was completed, a small area with low-concentration residual impacts, that has minimal risk and potential for exposure, remains in an offsite property where the DERR had repeatedly been denied access to conduct an additional investigation. In 2022 the DERR notified the offsite property owner of its intent to close out the release, allowing the property owner 60-days to comment on the proposed site closure. No comments were received, and this legacy LUST Trust site reached NFA status after 36 years.



Safety Considerations for Utility Markings

By Mark Crim

Perhaps you've heard of the statement 'I don't believe my lying eyes'. Well, the statement couldn't be truer for those involved with utility location associated with petroleum storage tank (PST) excavation work or environmental investigations. For this kind of work, it is normal and often required to call the Blue Stakes notification number '811' in order to summon the various entities for marking the locations of publicly placed subsurface utilities.

Over time, seasoned PST and environmental workers often find utilities that could have/should have been marked, while griping about that matter. Fact is many of the utility markings made, utilize maps from the given utility company, metal detectors, or electromagnetic and ground penetrating radar (GPR) equipment. Confidence in the utility markings should be high, but awareness of undetected utilities should always be in mind when digging or drilling in these locations.

Stories of caution from those seasoned workers indicate that even when the best practices for utility locating are used, such as calling Blue Stakes, utilizing a private property utility location service, using GPR or daylighting soil borings prior to drilling, undiscovered or unmarked utilities are occasionally found. With this in mind, all excavating and drilling work should proceed with caution and awareness of the potential for hidden utilities. Blue Stakes of Utah uses the acronym CARE.

- ❖ **C**all two working days before you dig
- ❖ **A**wait the required time
- ❖ **R**espect the marks
- ❖ **E**xcavate with care

The take home message for all things concerning utility markings, is to call Blue Stakes and or a private utility location service to discover utilities at your site, and to excavate or drill with CARE.



What's Wrong in this Picture?

By Deann Rasmussen



This picture is taken from underneath a dispenser. The presence of ball valves (see yellow handles), underneath breakaway valves, invalidates the breakaway valves. The ball valves need to be replaced with a proper plug from the respective manufacturer. This is a safety issue.

Important Dates to Remember

1. Throughput forms are mailed out around March 15th
2. Throughput forms are due by April 30th
3. Annual tank registration and PST Fund fee invoices are mailed around May 15th and the payment deadline for these fees is July 1st
4. Any facility that has not paid the annual fees by September 1st will lose PST Fund coverage and the Certificate of Compliance will lapse
5. Certificates of Compliance are mailed around the 15th of December
6. The Secondary Containment Tests to qualify for the rebate must be received by December 15th.
7. Aboveground Petroleum Storage Tanks (APSTs) are required to submit a Notification Form by June 20, 2022
8. APSTs must have Financial Responsibility and obtain a Certificate of Compliance by June 30, 2023

DERR Updates

Position Changes

Alexis Difrancesco, Support Staff, Left DERR, March 2022
Megan Osswald, Assistant Director, Division of Water Quality, Passed Away, April 2022
Justin Wood, Release Prevention and Compliance Section, Left the DERR, April 2022
Seini Siala, PST Branch Secretary, Left DERR, April 2022
Greg Gavin, Environmental Assurance Cleanup Section, Left the DERR, May 2022
Amanda Sorensen, PST Branch Secretary, Left the DERR, July 2022
Porter Heinze, Remedial Assistance Section, Left the DERR, September 2022
Alexander Jones, Environmental Assurance Cleanup Section, New Hire, October 2022
John Schwarz, Release Prevention and Compliance Section, New Hire, October 2022
Nicole Chavez, DERR Support Staff, New Hire, October 2022
Katie Crane, CERCLA Section Manager, Left the DERR, October 2022
Liberty Cole, Remedial Assistance Cleanup Section, New Hire, January 2023
Molly Parker, Environmental Assurance Cleanup Section, Left the DERR, January 2023

Certification Corner

EXAMS for A/B Operators, Groundwater and Soil Samplers, UST Removers, UST Installers, UST Technicians, UST Testers and PST Consultants

Testing Location: Utah DEQ/DERR office at 195 North 1950 West, Salt Lake City, Utah.

Testing Times: DERR is testing on the 1st and 3rd Tuesdays of each month, by appointment only, and offered by Chelsea Qualls, as availability occurs. Some months have only one testing date if a regularly scheduled date occurs near a major holiday.

Currently with social distancing measures during our exam periods, we can only allow a limited number of testers per date. If you are hoping for a particular exam date, please send your application and supporting documents to Chelsea at least 1 week in advance of the date you prefer, as exam dates tend to get completely booked 1-2 weeks prior. **You can pay fees online:** [DERRpay.utah.gov](https://derrpay.utah.gov)

If you are unsure if you have submitted an application, contact Chelsea, she would be happy to check for you. Please contact Chelsea Qualls at cqualls@utah.gov or 801-536-4100.

Certified PST Consultant Recertification Changes

Regarding the Certified PST Consultant course: at this time the DERR is providing an online version of the course on Google Meet. The course is held live twice a year and is available at other times for a replay & online exam.

