**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;

(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;

(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)(jjj); 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 new 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.

**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(2)(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(2)(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(2), 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(2); 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 Subsections 19-6-411(7) and 19-6-407(2)(g)(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, out of service after May 5, 2021, the director shall authorize the placement of a delivery prohibition tag as soon as practicable.

(4) For PSTs, the director shall authorize the placement of a delivery prohibition tag to be placed on the PST as soon as practicable after the determination that a release from a PST is ongoing. The determination may be made by:

(a) failed tests as defined by "PST Testing" in R311-200-1(zz); or

(b) visual presence, odors, inventory loss, or otherwise apparent contamination of environmental media.

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

(6) 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(8).

(7) 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.

(8) 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.

(9) If a delivery prohibition tag is removed without the authorization specified in Subsection R311-206-8(8)(a)(ii) or R311-206-8(8)(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) pro rata 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(2); 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).

**KEY: petroleum, underground storage tanks**

**Date of Last Change: September 16, 2025**

**Notice of Continuation: March 8, 2022**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403; 19-6-410.5; 19-6-428**