Utah Waste Management and Radiation Control Board Action Item

Proposed changes to R311, Underground Storage Tank Rules,
for initial publication and public comment

The Division of Environmental Response and Remediation (DERR) requests that the Utah Waste Management and Radiation Control Board approve proposed amendments to the Utah Underground Storage Tank (UST) rules for initial publication and public comment.

Background:

New Federal Underground storage tank regulations became effective on October 13, 2015. The new regulations have additional requirements for UST owner/operators, most of which take effect on October 13, 2018. To maintain program approval from the EPA, the DERR UST program and rules must be at least as stringent as the federal UST regulations. The DERR is proposing to incorporate by reference most of the new federal regulations, and make changes to the Utah UST rules to administer the regulations. Other changes are proposed to simplify the state rules and remove wording that is redundant or no longer applies.

The DERR presented the proposed changes to the Board as an information item in the Board's June 2016 meeting. The DERR also presented the changes to the UST Advisory Task Force in its April and July 2016 meetings, and solicited initial comments from UST stakeholders during the month of June 2016. The proposed changes were also submitted to EPA for review to ensure that they meet the requirements for upcoming state program approval. Based on the comments received, the Division is proposing changes to the initial proposal:

- R311-201-2(c)(3). Allow UST owner/operators to perform hydrostatic tests of spill prevention equipment buckets and containment sumps.
- R311-203-5(b) and (c). Specify options for reporting spill bucket and containment sump test results.
- Retain Section R311-203-6 to provide for continuity and the ability to enforce secondary containment requirements that were in place from October 1, 2008 until the adoption of the new rules (expected to be January 1, 2017). Add a statement to provide for secondary containment requirements in accordance with 40 CFR 280.20 after January 1, 2017.
- R311-205. Drop the proposal to add a new lab analysis method for oil and grease sampling.

Summary of the Proposed Changes:

R311-200, Underground Storage Tanks: Definitions.

- R311-200-1(b). Remove definitions that are no longer needed, due to changes in the federal UST regulations or changes in the state UST rules.
- R311-200-1(b)(55). Modify the definition of UST Testing to include new types of testing that are now part of the federal regulations or the state rules.

R311-201, Underground Storage Tanks: Certification Programs and UST Operator Training.

- Remove dates that defined when UST-related activities initially had to be done by a certified individual. The dates are long past, so they are no longer needed in rule.

- R311-201-2(c)(2) and (3). Specify which types of UST testing can be performed by a certified installer/installer technician or an UST owner/operator.
- R311-201-2(c)(4). Add new types of testing to the section that specifies that tester certification only applies to the test equipment for which the tester has been trained by the equipment manufacturer.
- R311-201-4(c)(2). Reword UST tester training requirements, for clarity.
- R311-201-6. Modify standards of performance to create an initial section that refers to all certified individuals and separate sections for each certification type. Removes duplication.
- R311-201-7. Remove a reference to the Board hearing certification-related appeals. By statute, the Board no longer hears these cases.
- R311-201-12(h) and (i). Move sections on UST operator inspections and requirements for un-attended facilities to R311-203-7 and 203-8. Remove incorporation by reference for the operator inspection form.
- R311-201-12(i)(4). Clarify the sequence of events if an A or B operator must re-train due to compliance issues, and does not re-train within the specific period- lapse operator registration.

R311-202, Underground Storage Tank Technical Standards.

- Rename the rule to "Federal Underground Storage Tank Regulations."
- Incorporate most of the new federal UST regulations by reference and modify some compliance dates in the new regulations because the dates have already passed. Subpart J (operator training) and the definitions related to operator training will not be adopted.

Principal changes to 40 CFR 280, the federal UST regulations

- Regulations are effective as of October 13, 2015, but most new requirements do not take effect until October 13, 2018.
- 280.20 Secondary containment required for all new tanks, piping, and dispensers.
- Subpart J. Operator training requirements.
- Periodic operation and maintenance requirements for USTs
  - 280.35. Testing of spill prevention equipment, overfill prevention devices, and containment sumps used for interstitial monitoring.
  - 280.36. Periodic operation and maintenance walkthrough inspections.
  - 280.40(a)(3). Annual testing/inspection of electronic and mechanical release detection components.
- Addressing deferrals
  - 280.10(1). Leak detection now required for emergency generator tanks.
  - Subpart K. Full regulation of airport hydrant systems and field-constructed tanks.
- 280.43(h). Add new release detection technologies (SIR).
- Update codes of practice.
- Corrections and technical amendments.
- 280.32. Requirements to demonstrate compatibility of equipment with the substance stored.
- 280.41(a) and (b). Interstitial monitoring for new tanks and piping.
- 40 CFR 281. States must re-apply for State Program Approval

R311-203, Underground Storage Tanks: Technical Standards.

- R311-203-4(g). Add a statement to clarify the fees to be paid for non-notified tanks that are discovered and removed promptly.
- R311-203-5. Remove testing requirements that are now included in the federal regulations. Add options for reporting tests of spill prevention equipment and containment sumps, including new forms that may be used to report test results.
- R311-203-6. Specify that the secondary containment rule applies to installations that occur

between October 1, 2008 and January 1, 2017. Specify that secondary containment requirements in 40 CFR 280.20 will apply to installations and replacements that occur on or after January 1, 2017.

- R311-203-7 and R311-203-8. Add operator inspection rule and requirements for un-attended facilities. Moved from R311-201-12.
- R311-203-7. Modify the operator inspection rule and the operator inspection form to conform to the new federal regulations.

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

- R311-206-3(a)(8). Add a requirement that the completed tank manufacturer's installation checklist is submitted for issuance of a certificate of compliance for new tanks.
- R311-206-4(e). Remove references to fiscal year 1998 in the rule that specifies the requirements for auditing of facility throughput records.
- R311-206-5. Remove the requirement for yearly submittal of alternate financial responsibility documents in cases where an insurance policy has a term longer than one year.
- R311-206-6(b)(2). Change the citation referencing the adoption of the state fire code. It has been moved in state law.
- R311-206-11. Re-word the requirements for Environmental Assurance program rebate, for clarity.

R311-212, Administration of the Petroleum Storage Tank Loan Program.

- R311-212-7. Add wording to clarify the amount of the initial disbursement that can be made on approved loans.
- R311-212-10. Incorporate by reference a new loan application form that includes wording to clarify the initial disbursement amount.

Attached are the following documents:

- The text of the proposed rule changes. Rule wording to be added is <u>underlined</u>, and wording to be removed is ~~struck out~~.
- The rule analysis forms (one for each rule to be changed) to be submitted to the Division of Administrative Rules. These are provided in accordance with Governor Herbert's December 2011 Executive Order regarding rulemaking.
- A modified PST loan application form, to be incorporated by reference.
- A revised operator inspection form, and new forms that may be used to report results of hydrostatic tests of spill prevention equipment and containment sumps.

Action Item:

The Division of Environmental Response and Remediation requests that the Utah Waste Management and Radiation Control Board approve the proposed changes to **R311-200, R311-201, R311-202, R311-203, R311-206, and R311-212** for initial publication and public comment as amended rules.

The proposed adoption schedule is:

Board approval for publication and public comment: September 8, 2016
Publication in the Utah State Bulletin: October 1, 2016
Public comment period: October 1, 2016 to October 31, 2016
Public hearing: October 17, 2016
Board approval for final adoption: November 10, 2016
Final effective date of new rules: January 1, 2017

R311. Environmental Quality, Environmental Response and Remediation.
R311-200. Underground Storage Tanks: Definitions.
R311-200-1. Definitions.

(a) Refer to Section 19-6-402 for definitions not found in this rule.

(b) For purposes of underground storage tank rules:

(1) "Actively participated" for the purpose of 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.

[~~(2) "Alternative Fuel" means a petroleum based fuel containing:~~
~~(A) more than ten percent ethanol, or~~
~~(B) more than twenty percent biodiesel.~~]

([~~3~~]2) "As-built drawing" for purpose of notification means a drawing to scale of newly constructed USTs. The USTs 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 shall be limited to 8-1/2" x 11" if possible, but shall in no case be larger than 11" x 17".

[~~(4) "Automatic line leak detector test" means a test that simulates a leak, and causes the leak detector to restrict or shut off the flow of regulated substance through the piping or trigger an audible or visual alarm.~~]

([~~5~~]3) "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 underground storage tank system.

[~~(6) "Biodiesel" means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100.~~]

([~~7~~]4) "Burden" means the addition of the percentage of indirect costs which are added to raw labor costs.

([~~8~~]5) "Certificate" means a document that evidences certification.

([~~9~~]6) "Certification" means approval by the Director or the Board to engage in the activity applied for by the individual.

([~~10~~]7) "Certified Environmental Laboratory" means a laboratory certified by the Utah Department of Health as outlined in Rule R444-14 to perform analyses according to the laboratory methods identified for UST sampling in Subsection R311-205-2(d).

([~~11~~]8) "Change-in-service" means the continued use of an UST to store a non-regulated substance.

([~~12~~]9) "Community Water System" means a public water system that serves at least fifteen service connections used by year-round residents or regularly serves at least 25 year-round residents.

([~~13~~]10) "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 for the purpose of determining the extent and degree of contamination.

(1[~~4~~]1) "Consultant" is a person who is a certified underground storage tank consultant according to Subsection 19-6-402(6).

(1[~~5~~]2) "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.

(1[~~6~~]3) "Customary, reasonable and legitimate work" means work for investigation, abatement and corrective action that is required to 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 taking into account current or probable land use as determined by the Director following the criteria in R311-211.

(1[~~7~~]4) "Department" means the Utah Department of Environmental Quality.

(1[~~8~~]5) "Eligible exempt underground storage tank" for the purpose of eligibility for the Utah Petroleum Storage Tank Trust Fund means a tank specified in 19-6-415(1).

(1[~~9~~]6) "Environmental sample" is a groundwater, surface water, air, or soil sample collected, using appropriate methods, for the purpose of evaluating environmental contamination.

([~~20~~]17) "EPA" means the United States Environmental Protection Agency.

([~~2~~]18) "Expeditiously 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.

([~~22~~]19) "Fiscal year" means a period beginning July 1 and ending June 30 of the following year.

([~~23~~]20) "Full installation" for the purposes of 19-6-411(2) means the installation of an underground storage tank.

(2[~~4~~]1) "Groundwater sample" is a sample of water from below the surface of the ground collected according to protocol established in Rule R311-205.

(2[~~5~~]2) "Groundwater and soil sampler" is the person who performs environmental sampling for compliance with Utah underground storage tank rules.

(2[~~6~~]3) "Injury or Damages 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 R311-211-6(a).

(2[~~7~~]4) "In use" means that an operational, inactive or abandoned underground storage tank contains a regulated substance, sludge, dissolved fractions, or vapor which may pose a threat to human health, safety or the environment as determined by the Director.

(2[~~8~~]5) "Lapse" in reference to the Certificate of Compliance and coverage under the Petroleum Storage Tank Trust Fund, means to terminate automatically.

(2[~~9~~]6) "Native soil" means any soil that is not backfill material, which is naturally occurring and is most representative of the localized subsurface lithology and geology.

([~~30~~]27) "No Further Action determination" means that the Director has evaluated information provided by responsible parties or others about the site and determined detectable petroleum contamination from a particular release does not present an unacceptable risk to public health or the environment based upon Board established criteria in R311. If future evidence indicates contamination from that release may cause a threat, further corrective action may be required.

([~~31~~]28) "Notice of agency action" means any enforcement notice, notice of violation, notice of non-compliance, order, or letter issued to an individual for the purpose of obtaining compliance with underground storage tank rules and regulations.

([~~3~~]29) "Occurrence" in reference to Subsection R311-208-4 means a separate petroleum fuel delivery to a single tank.

([~~33~~]30) "Owners and operators" means either an owner or operator, or both owner and operator.

(3[~~4~~]1) "Over-excavation" means any soil removed in an effort to investigate or remediate in addition to the minimum amount required to remove the UST or take environmental samples during UST closure activities as outlined in Section R311-205-2.

(3[~~5~~]2) "Permanently closed" means underground storage tanks that are removed from service following guidelines in 40 CFR Part 280 Subpart G adopted by [~~Section~~]Rule R311-202.

(3[~~6~~]3) "Petroleum storage tank" means a storage tank that contains petroleum as defined by Section 19-6-402(20).

(3[~~7~~]4) "Petroleum storage tank fee" means the fee which capitalizes the Petroleum Storage Tank Trust Fund as established in Section 19-6-409.

(3[~~8~~]5) "Petroleum storage tank trust fund" means the fund created by Section 19-6-409.

(3[~~9~~]6) "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 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.

([~~40~~]37) "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 fifteen 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.

([~~41~~]38) "Registration fee" means underground storage tank registration fee.

([~~42~~]39) "Regulated substance" means any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act "CERCLA" of 1980, but not including any substance

regulated as a hazardous waste under subtitle C, and petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure, 60 degrees Fahrenheit and 14.7 pounds per square inch absolute. The term "regulated substance" includes petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, and includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(4[~~3~~]0) "Secondary Containment", for the purposes of 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 shall meet the requirements of 40 CFR 280.43(g).

([~~44~~]41) "Site assessment" or "site check" is an evaluation of the level of contamination at a site which contains or has contained an UST.

([~~45~~]42) "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, Subparts E and F.

([~~46~~]43) "Site investigation" is work performed by the owner or operator, or his designee, when gathering information for reports required for Utah underground storage tank rules.

(4[~~7~~]4) "Site plat" for purpose of notification, or reporting, refers to a drawing to scale of USTs 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 shall 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 UST(s); extent of any excavation(s) and known contamination and location and volume of any stockpiled soil; locations and depths of all environmental samples collected; locations and total depths of monitoring wells, soil borings or other measurement or data points; type of ground-cover; utility conduits; local land use; surface water drainage; and other relevant features.

(4[~~8~~]5) "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:

(A) Fire and explosion hazards have been abated.

(B) Free flow of the product out of the tank has been stopped.

(C) 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.

(D) Alternative water supplies have been provided to affected parties whose original water supply has been contaminated by the release.

(E) A soil or groundwater management plan or both have been submitted for approval by the Director.

(4[~~9~~]6) "Soil sample" is a sample collected following the protocol established in Rule R311-205.

([~~50~~]47) "Surface water sample" is a sample of water, other than a groundwater sample, collected according to protocol established in Rule R311-205.

([~~51~~]48) "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.

([~~52~~]49) "Third-party Class B operator" is any individual who is not the facility owner/operator or an employee of the owner/operator and who, by contract, provides the services outlined in R311-201-12(e).

[~~(53) "UAPA exempt orders" are orders that are exempt from requirements of the Utah Administrative Procedures Act under Section 63G-4-102(2)(k), Utah Code Annot.~~]

(5[~~4~~]0) "Under-Dispenser Containment", for the purposes of 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.

[~~(55) "Underground storage tank" or "UST" means any one or combination of tanks, including underground pipes connected thereto and any underground ancillary equipment and containment system, that is used to contain an accumulation of regulated substances, and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground, regulated under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C., Section 6991c et seq.~~]

([~~56~~]51) "Underground storage tank registration fee" means the fee assessed by Section 19-6-408 on tanks

located in Utah.

(5[~~7~~]2) "UST inspection" is the inspection required by state and federal underground storage tank rules and regulations during the installation, testing, repairing, operation or maintenance, and removal of regulated underground storage tank.

(5[~~8~~]3) "UST inspector" is an individual who performs underground storage tank inspections for compliance with state and federal rules and regulations as authorized in Subsection 19-6-404(2)(c).

(5[~~9~~]4) "UST installation" means the installation of an underground storage tank, including construction, placing into operation, building or assembling an underground storage tank 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:

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

(B) vent and product piping assembly;

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

(D) internal lining;

(E) secondary containment construction; and

(F) UST repair and service.

([~~60~~]55) "UST installation permit fee" means the fee established by Section 19-6-411(2)(a)(ii).

(56[~~1~~]) "UST installer" means an individual who engages in underground storage tank installation.

([~~62~~]57) "UST removal" means the removal of an underground storage tank system, including permanently closing and taking out of service all or part of an underground storage tank.

([~~63~~]58) "UST remover" means an individual who engages in underground storage tank removal.

([~~64~~]59) "UST tester" means an individual who engages in UST testing.

(6[~~5~~]0) (A) "UST testing" means

(i) a testing method which can detect leaks in an underground storage tank system, or

(ii) testing for compliance with corrosion protection requirements, or

(iii) testing or inspection for proper operation of overfill prevention devices and electronic or mechanical leak detection components.

(B) Testing methods must meet applicable performance standards [~~of~~]:

(i) 40 CFR 280.40(a)([~~3~~]4), 280.43(c), and 280.44(b) for tank and product piping tightness testing,

(ii) [~~280.44(a) for automatic line leak detector testing~~]40 CFR 280.35(a)(1)(ii) for testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping,[~~ and~~]

(iii) 280.31(b) for cathodic protection testing[~~.~~],

(iv) 280.35(a)(2) for overfill device inspection,

(v) 280.40(a)(3) for testing of mechanical and electronic release detection components, and

(vi) R311-206-11(c)(2)(C) for tank and piping secondary containment testing under R311-206-11.

KEY: petroleum, underground storage tanks
Date of Enactment or Last Substantive Amendment: March 9, 2012
Notice of Continuation: April 10, 2012
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403

R311. Environmental Quality, Environmental Response and Remediation.
R311-201. Underground Storage Tanks: Certification Programs and UST Operator Training.
R311-201-1. Definitions.

Definitions are found in Rule R311-200.

R311-201-2. Certification Requirement.

(a) Certified UST Consultant. [~~After December 31, 1995, n~~]No person shall provide or contract to provide information, opinions, or advice relating to UST release management, abatement, investigation, corrective action, or evaluation for a fee, or in connection with the services for which a fee is charged, without having certification to conduct these activities, except as outlined in Subsections 19-6-402(6)(b)(i), 19-6-402(6)(b)(ii) and R311-204-5(b). The Certified UST Consultant shall be the person directly overseeing UST release-related work. The Certified UST

Consultant shall make pertinent project management decisions and be responsible for ensuring that all aspects of UST-related work are performed in an appropriate manner, and all related documentation for work performed submitted to the Director shall contain the Certified UST Consultant's signature. A[~~fter December 31, 1995, a~~]ny release abatement, investigation, and corrective action work performed by a person who is not certified or who is not working under the direct supervision of a Certified UST Consultant, and is performed for compliance with Utah underground storage tank release-related rules, except as outlined in Subsections 19-6-402(6)(b)(i), 19-6-402(6)(b)(ii) and R311-204-5(b), may be rejected by the Director.

(b) UST Inspector. [~~After December 31, 1989, n~~]No person shall conduct underground storage tank inspection as authorized in Subsection 19-6-404(2)(c) without having certification to conduct these activities.

(c) UST tester.

(1) [~~After December 31, 1989~~]Except as outlined in Subsections (c)(2) and (c)(3), no person shall conduct UST testing without having certification to conduct such activities. [~~After December 31, 1989~~]Except as outlined in Subsection (c)(2) and (c)(3), no owner or operator shall allow UST testing to be conducted on an UST under their ownership or operation unless the person conducting the UST testing is certified according to Rule R311-201.

(2) An individual certified under Rule R311-201 as an installer may:

(A) perform a test of spill prevention equipment and containment sumps used for interstitial monitoring of piping, to meet the requirements of 40 CFR 280.35(a)(1)(ii), if no equipment that requires training by the manufacturer is used;

(B) perform an overfill device inspection to meet the requirements of 40 CFR 280.35(a)(2);

(C) perform a test for proper operation of release detection components to meet the requirements of 40 CFR 280.40(a)(3)(i),(ii), (iv), and (v); and

(D) perform a test of a piping containment sump or under-dispenser containment to meet the requirements of R311-206-11(e)(2), if no equipment that requires training by the manufacturer is used.

(3) An UST owner or operator may:

(A) perform a hydrostatic test of spill prevention equipment and containment sumps used for interstitial monitoring of piping, to meet the requirements of 40 CFR 280.35(a)(1)(ii), if no equipment that requires training by the manufacturer is used, and

(B) perform a test of a piping containment sump or under-dispenser containment to meet the requirements of R311-206-11(e)(2), if no equipment that requires training by the manufacturer is used.

(4) Certification by the Director under this Rule [~~for tank, line and leak detector testing~~]shall apply only to the specific UST testing equipment and procedures for which the UST tester has been successfully trained by the manufacturer of the equipment, or by training determined by the Director to be equivalent to the manufacturer training, for these types of testing:

(A) tank, line, and leak detector testing;

(B) interstitial tests of tanks and piping; and

(C) spill prevention device and containment sump testing, if equipment that requires training by the manufacturer is used.

(5) The Director may issue a limited certification restricting the type of UST testing the applicant can perform.

(d) Groundwater and soil sampler. [~~After December 31, 1989, n~~]No person shall conduct groundwater or soil sampling for determining levels of contamination which may have occurred from regulated underground storage tanks without having certification to conduct these activities. [~~After December 31, 1989, n~~]No owner or operator shall allow any groundwater or soil sampling for determining levels of contamination which may have occurred from regulated underground storage tanks to be conducted on a tank under their ownership or operation unless the person conducting the groundwater or soil sampling is certified according to Rule R311-201.

(e) UST Installer. [~~After January 1, 1991, n~~]No person shall install an underground storage tank without having certification or the on-site supervision of an individual having certification to conduct these activities. [~~After January 1, 1991, n~~]No owner or operator shall allow the installation of an underground storage tank to be conducted on a tank under their ownership or operation unless the person installing the tank is certified according to Rule R311-201. The Director may issue a limited certification restricting the type of UST installation the applicant can perform.

(f) UST Remover. [~~After January 1, 1991, n~~]No person shall remove an underground storage tank without having certification or the on-site supervision of an individual having certification to conduct these activities. [~~After~~

~~January 1, 1991, n~~]No owner or operator shall allow the removal of an underground storage tank to be conducted on a tank under their ownership or operation unless the person conducting the tank removal is certified according to Rule R311-201.

R311-201-3. Application for Certification.

(a) Any individual may apply for certification by paying any applicable fees and by submitting an application to the Director to demonstrate that the applicant

(1) meets applicable eligibility requirements specified in S[~~ubs~~]ection R311-201-4 and

(2) will maintain the applicable performance standards specified in S[~~ubs~~]ection R311-201-6 after receiving a certificate.

(b) Applications submitted under Subsection R311-201-3(a) shall be reviewed by the Director for determination of eligibility for certification. If the Director determines that the applicant meets the applicable eligibility requirements described in S[~~ubs~~]ection R311-201-4 and meets the standards described in S[~~ubs~~]ection R311-201-6, the Director shall issue to the applicant a certificate.

(c) Certification for all certificate holders shall be effective for a period of two years from the date of issuance, unless revoked before the expiration date pursuant to Section R311-201-9 or inactivated pursuant to Section R311-201-8. Certificates shall be subject to periodic renewal pursuant to S[~~ubs~~]ection R311-201-5.

R311-201-4. Eligibility for Certification.

(a) Certified UST Consultant.

(1) Training. For initial and renewal certification, an applicant must meet Occupational Safety and Health Agency safety training requirements in accordance with 29 CFR 1910.120 and any other applicable safety training, as required by federal and state law, and within a six-month period prior to application must complete an approved training course or equivalent in a program approved by the Director to provide training to include the following areas: state and federal statutes, rules and regulations, groundwater and soil sampling, and other applicable and related Department of Environmental Quality policies.

(2) Experience. Each applicant must provide with the application a signed statement or other evidence demonstrating three years, within the past seven years, of appropriately related experience in underground storage tank release abatement, investigation, and corrective action, or an equivalent combination of appropriate education and experience, as determined by the Director.

(3) Education. Each applicant must provide with the application college transcripts or other evidence demonstrating the following:

(A) a bachelor's or advanced degree from an accredited college or university with major study in environmental health, engineering, biological, chemical, environmental, or physical science, or a specialized or related scientific field, or equivalent education/experience as determined by the Director;

(B) a professional engineering certificate licensed under Title 58, Chapter 22, of the Professional Engineers and Land Surveyors Licensing Act or equivalent certification as determined by the Director; or

(C) a professional geologist certificate licensed under Title 58, Chapter 76 of the Professional Geologist Licensing Act, or equivalent certification as determined by the Director.

(4) Initial Certification Examination. Each applicant who is not certified pursuant to R311-201-3 must successfully pass an initial certification examination or equivalent administered under the direction of the Director. The Director shall determine the content of the initial examination based on the training requirements as outlined in Subsection R311-201-4(a)(1).

(5) Renewal Certification Examination. Certified UST Consultants seeking to renew their certification pursuant to R311-201-5 must successfully pass a renewal certification examination or equivalent administered under the direction of the Director. The Director shall determine the content of the renewal examination based on the training requirements as outlined in Subsection R311-201-4(a)(1). The Director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(6) Examination for Revoked or Expired Certification. Any applicant who is not a Certified UST Consultant on the date the renewal certification examination is given, because the consultant's prior UST Consultant certification was revoked or expired prior to completing a renewal application, must successfully pass the initial certification examination administered under R311-201-4(a)(4).

(b) UST Inspector.

(1) Training. For initial certification, an applicant must have successfully completed an underground storage tank inspector training course or equivalent within the six month period prior to application. The training course shall be approved by the Director and shall include instruction in the following areas: corrosion, geology, hydrology, tank handling, tank testing, product piping testing, disposal, safety, sampling methodology, state site inspection protocol, state and federal statutes, rules and regulations. Renewal certification training will be established by the Director. The applicant must provide documentation of training with the application.

(2) Certification Examination. An applicant must successfully pass a certification examination administered under the direction of the Director. The Director shall determine the content of the initial and renewal examinations, based on the training requirements as outlined in Subsection R311-201-4(b)(1), and the standards and criteria against which the applicant will be evaluated. The Director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(c) UST Tester.

(1) Financial Assurance. An applicant or applicant's employer shall have insurance, surety bonds, liquid company assets or other appropriate kinds of financial assurance which covers UST testing and which, in combination, represent an unencumbered value of the largest UST testing contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or $50,000, whichever is greater. An applicant who uses his employer's financial assurance must also provide evidence of his employer's approval of the certification application.

(2) Training.

(A) [~~Tank and product piping tightness testing, and automatic line leak detector testing.~~]For initial certification, an applicant shall complete underground storage tank testers training within the six month period prior to application, in a program approved by the Director to provide training to include applicable and related areas of state and federal statutes, rules, and regulations. Renewal certification training will be established by the Director. The applicant must provide documentation of training with the application.

(B) For initial certification to perform the types of testing specified in R311-201-2(c)(3), an applicant must have successfully passed a training course conducted by the manufacturer of the UST testing equipment that he will be using, or a training course determined by the Director to be equivalent to the manufacturer training, in the correct use of the necessary equipment, and testing procedures required to operate the UST test system. An applicant for renewal of certification must have successfully passed an appropriate refresher training course conducted by the manufacturer of the UST testing equipment that he will be using, or training as determined by the Director to be equivalent to the manufacturer training, in the correct use of the necessary equipment, and testing procedures required to operate the UST test system. For renewal certification, refresher training or equivalent must be completed within one year prior to the expiration date of the certificate. [~~In addition, an applicant must complete underground storage tank testers training within the six month period prior to application in a program approved by the Director to provide training to include applicable and related areas of state and federal statutes, rules and regulations. Renewal certification training will be established by the Director. The applicant must provide documentation of training with the application.~~]

([~~B~~]C) Cathodic protection testing. For initial and renewal of certification, the applicant shall provide documentation of training as a "Cathodic protection tester" as defined in 40 CFR 280.12. The applicant shall provide documentation of training with the application.

(3) Performance Standards of Equipment. An applicant shall submit documentation that demonstrates the UST testing equipment used by the applicant meets the performance standards [~~of 40 CFR Part 280.40(a)(3), 280.43(c), and 280.44(b) for tank and product piping tightness testing~~]specified in R311-200-1(b)(60)(B). This documentation shall be obtained through an independent lab, professional engineering firm, or other independent organization or individual approved by the Director. The documentation shall be submitted at the time of application for certification.

(4) Certification Examination. An applicant must successfully pass a certification examination administered under the direction of the Director. The Director shall determine the content of the initial and renewal examinations, based on the training requirements as outlined in Subsection R311-201-4(c)(2), and the standards and criteria against which the applicant will be evaluated. The Director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(d) Groundwater and soil sampler.

(1) Training. For initial certification an applicant shall successfully complete an underground storage tank groundwater and soil sampler training course or equivalent within the six month period prior to application. The training course shall be approved by the Director and shall include instruction in the following areas: chain of custody, decontamination, EPA testing methods, groundwater and soil sampling protocol, preservation of samples during transportation, coordination with Utah certified labs, state and federal statutes, rules and regulations. Renewal certification training will be determined by the Director. The applicant shall provide documentation of training with the application.

(2) Certification Examination. An applicant must successfully pass a certification examination administered under the direction of the Director. The Director shall determine the content of the initial and subsequent examinations, based on the training requirements as outlined in Subsection R311-201-4(d)(1), and the standards and criteria against which the applicant will be evaluated. The Director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(e) UST Installer.

(1) Financial assurance. An applicant or the applicant's employer shall have insurance, surety bonds, liquid company assets or other appropriate kinds of financial assurance which covers underground storage tank installation and which, in combination, represents an unencumbered value of not less than the largest underground storage tank installation contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or $250,000, whichever is greater. Evidence of financial assurance shall be provided with the application. An applicant who uses his employer's financial assurance must also provide evidence of his employer's approval of the application.

(2) Training. For initial certification, an applicant must have successfully completed an underground storage tank installer training course or equivalent within the six-month period prior to the application. The training course shall be approved by the Director, and shall include instruction in the following areas: tank installation, pre-installation tank testing, product piping testing, excavation, anchoring, backfilling, secondary containment, leak detection methods, piping, electrical, state and federal statutes, rules and regulations. The applicant must provide documentation of training with the application.

(3) Experience. Each applicant must provide with his application a sworn statement or other evidence that he has actively participated in a minimum of three underground storage tank installations.

(4) Certification Examination. An applicant must successfully pass a certification examination administered under the direction of the Director. The Director shall determine the content of the initial and renewal examinations, based on the training requirements as outlined in Subsection R311-201-4(e)(2), and the standards and criteria against which the applicant will be evaluated. The Director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(f) UST Remover.

(1) Financial assurance. An applicant or the applicant's employer shall have insurance, surety bonds, liquid company assets or other appropriate kinds of financial assurance which covers underground storage tank removal and which, in combination, represents an unencumbered value of not less than the largest underground storage tank removal contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or $250,000, whichever is greater. Evidence of financial assurance shall be provided with the application. An applicant who uses his employer's financial assurance must also provide evidence of his employer's approval of the application.

(2) Training. For initial certification, an applicant must have successfully completed an underground storage tank remover approved training course or equivalent within the six-month period prior to the application. The training course shall be approved by the Director and shall include instruction in the following areas: tank removal, tank removal safety practices, state and federal statutes, rules and regulations. The applicant must provide documentation of training with the application.

(3) Experience. Each applicant must provide with his application a sworn statement or other evidence that he has actively participated in a minimum of three underground storage tank removals.

(4) Certification Examination. An applicant must successfully pass a certification examination administered under the direction of the Director. The Director shall determine the content of the initial and renewal examinations, based on the training requirements as outlined in Subsection R311-201-4(f)(2), and the standards and criteria against

which the applicant will be evaluated. The Director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

R311-201-5. Renewal.

(a) A certificate holder may apply for certificate renewal not more than six months prior to the expiration date of the certificate by:

(1) submitting a completed application form to demonstrate that the applicant meets the applicable eligibility requirements described in R311-201-4 and meets the applicable performance standards specified in R311-201-6;

(2) paying any applicable fees, and

(3) passing a certification renewal examination.

(b) If the Director determines that the applicant meets the applicable eligibility requirements of R311-201-4 and the applicable performance standards of R311-201-6, the Director shall reissue the certificate to the applicant.

(c) Renewal certificates shall be issued for a period equal to the initial certification period, and shall be subject to inactivation under R311-201-8 and revocation under R311-201-9.

(d) Any applicant who has a certification which has been revoked or expired for more than two years prior to submitting a renewal application shall successfully satisfy the training and certification examination requirements for initial certification under R311-201-4 for the applicable certificate before receiving the renewal certification, except as provided in R311-201-4(a)(6) for certified UST consultants.

R311-201-6. Standards of Performance.

(a) Individuals who are certified in accordance with Rule R311-201 shall:

(1) display the certificate upon request;

(2) comply with all local, state, and federal laws, rules, and regulations regarding the UST activity for which certification is granted;

(3) report the discovery of any release caused by or encountered in the course of performing the UST activity for which certification is granted to the Director, the local health district, and the local public safety office within twenty-four hours. Certified UST consultants and certified groundwater and soil samplers shall report the discovery of any release caused by or encountered in the course of performing environmental sampling for compliance with Utah UST rules, or report the results indicating that a release may have occurred, to the Director, the local health district, and the local public safety office within twenty-four hours.

(4) not participate in fraudulent, unethical, deceitful, or dishonest activity with respect to a certificate application or performance of work for which certification is granted; and

(5) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program.

(b) Certified individuals shall, in addition to meeting the performance standards in R311-201-6(a), observe the following:

(1) Certified UST Consultant. An individual who provides UST consulting services in the State of Utah:

[~~(1) shall display the certificate upon request;~~

~~(2) shall comply with all local, state and federal laws, rules and regulations regarding UST release-related consulting in this state;~~]

([~~3~~]A) shall provide, or shall associate appropriate personnel in order to provide a high level of experience and expertise in release abatement, investigation, or corrective action;

([~~4~~]B) shall perform, or take steps to ensure that work is performed with skill, care, and diligence consistent with a high level of experience and expertise in release abatement, investigation, or corrective action;

([~~5~~]C) shall perform work and submit documentation in a timely manner;

([~~6~~]D) shall review and certify by signature any documentation submitted to the Director in accordance with UST release-related compliance; and

([~~7~~]E) shall ensure and certify by signature all pertinent release abatement, investigation, and corrective action work performed under the direct supervision of a Certified UST Consultant;

[~~(8) shall report the discovery of any release caused by or encountered in the course of performing environmental sampling for compliance with Utah underground storage tank rules, or report the results indicating that a release may have occurred, to the local health district, local public safety office and the Director within twenty-four~~

~~hours;~~

~~(9) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted; and,~~

~~(10) shall not participate in any other activities regulated under Rule R311-201 without meeting all requirements of that certification program.~~]

([~~b~~]2) UST Inspector. An individual who performs underground storage tank inspecting for the Division of Environmental Response and Remediation:

[~~(1) shall display his certificate upon request;~~

~~(2) shall comply with all local, state and federal laws, rules and regulations regarding underground storage tank inspecting in this state;~~

~~(3) shall report the discovery of any release caused by or encountered in the course of performing tank inspecting to the local health district, local public safety office and the Director within twenty-four hours;~~]

([~~4~~]A) shall conduct inspections of USTs and records to determine compliance with this rule only as authorized by the Director.

[~~(5) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;~~

~~(6) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted; and,~~

~~(7) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program.~~]

([~~c~~]3) UST Tester. An individual who performs UST testing in the State of Utah:

[~~(1) shall display his certificate upon request;~~

~~(2) shall comply with all local, state and federal laws, rules and regulations regarding UST testing in this state;~~]

([~~3~~]A) shall perform all work in a manner that there is no release of the contents of the tank;

[~~(4) shall report the discovery of any release caused by or encountered in the course of performing tank testing to the local health district, local public safety office and the Director within twenty-four hours;~~]

([~~5~~]B) shall assure that all operations of UST testing which are critical to the integrity of the system and to the protection of the environment shall be supervised by a certified person; and

[~~(6) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;~~

~~(7) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted where the manner of the activity would increase the possibility of a release or suspected release from an underground storage tank or which would falsify UST testing results of the underground storage tank system;~~]

([~~8~~]C) shall perform work in a manner that the integrity of the underground storage tank system is maintained[~~; and,~~].

[~~(9) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program.~~

~~(d) Groundwater and soil sampler. An individual who performs environmental sampling for compliance with Utah underground storage tank rules:~~

~~(1) shall display his certificate upon request;~~

~~(2) shall comply with all local, state and federal laws, rules and regulations regarding underground storage tank sampling in this state;~~

~~(3) shall report the discovery of any release caused by or encountered in the course of performing groundwater or soil sampling or report the results indicating that a release may have occurred to the local health district, local public safety office and the Director within twenty-four hours;~~

~~(4) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;~~

~~(5) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted; and,~~

~~(6) shall not participate in any other regulated certification program activities without meeting all~~

~~requirements of that certification program.~~]

([~~e~~]4) UST Installer. An individual who performs underground storage tank installation in the State of Utah:

[~~(1) shall display his certificate upon request;~~

~~(2) shall comply with all local, state and federal laws, rules and regulations regarding underground storage tank installation in this state;~~

~~(3) shall perform all work in a manner that there is no release of the contents of the tank;~~

~~(4) shall report the discovery of any release caused by or encountered in the course of performing tank installation to the local health district, local public safety office and the Director within twenty-four hours;~~]

([~~5~~]A) shall assure that all operations of tank installation which are critical to the integrity of the system and to the protection of the environment, [~~which~~]includ[~~es~~]ing pre-installation tank testing, tank site preparation including anchoring, tank placement, backfilling, cathodic protection installation, service, or repair, vent and product piping assembly, fill tube attachment, installation of tank manholes, pump installation, secondary containment construction, and UST repair, shall be supervised by a certified person; and

[~~(6) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;~~

~~(7) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted where the manner of the activity would increase the possibility of a release from an underground storage tank; and~~

~~(8) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program.~~]

([~~9~~]B) shall notify the Director as required by R311-203-3(a) before installing or upgrading an UST.

([~~f~~]5) UST Remover. An individual who performs underground storage tank removal in the State of Utah:

[~~(1) shall display his certificate upon request;~~

~~(2) shall comply with all local, state and federal laws and regulations regarding underground storage tank removal in this state;~~

~~(3) shall perform all work in a manner that there is no release of the contents of the tank;~~

~~(4) shall report the discovery of any release caused by or encountered in the course of performing tank removal to the local health district, local public safety office and the Director within twenty-four hours;~~]

([~~5~~]A) shall assure that all operations of tank removal which are critical to safety and to the protection of the environment which includes removal of soil adjacent to the tank, disassembly of pipe, final removal of product and sludges from the tank, cleaning of the tank, purging or inerting of the tank, removal of the tank from the ground, and removal of the tank from the site shall be supervised by a certified person; and

([~~6~~]B) shall not proceed to close a regulated UST without an approved closure plan, except as outlined in Subsection R311-204-2(b)[~~;~~].

[~~(7) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;~~

~~(8) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted where the manner of the activity would increase the possibility of a release from an underground storage tank; and~~

~~(9) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program, except as outlined in Subsection R311-204-5(b).~~]

R311-201-7. Denial of Certification and Appeal of Denial.

Any individual whose application or renewal application for certification or certification renewal is denied shall be provided with a written documentation by the Director specifying the reason or reasons for denial. An applicant may appeal th[~~at~~]e determination [~~to the Solid and Hazardous Waste Control Board~~]using the procedures specified in Section [~~63G-4-102~~]19-1-301.5, et seq., and Rule R[~~311-210~~]305-7.

R311-201-8. Inactivation of Certification.

If an applicant was certified based upon his employer's financial assurance, certification is contingent upon the applicant's continued employment by that employer. If the employer loses his financial assurance or the applicant leaves the employer, his certificate shall automatically be deemed inactive and he shall no longer be certified for

purposes of this Rule. Inactive certificates may be reactivated by submitting a supplemental application with new financial assurances and payment of any applicable fees. Reactivated certificates shall be effective for the remainder of their original term unless subsequently revoked or inactivated before the end of that term.

R311-201-9. Revocation of Certification.

Upon receipt of evidence that a certificate holder does not meet one or more of the eligibility requirements specified in Section R311-201-4 or does not meet one or more of the performance standards specified in Section R311-201-6, the individual's certification may be revoked. Procedures for revocation are specified in Rule R305-[~~6~~]7.

R311-201-10. Reciprocity.

If the Director determines that another state's certification program is equivalent to the certification program provided in this rule, the applicant successfully passes the Utah certification examination, and payment of any fees associated with this rule are made, he may issue a Utah certificate. The certificate will be valid until the expiration date of the previous state's certificate or the expiration of the certification period described in Subsection R311-201-3(c), as appropriate, whichever is first.

R311-201-12. UST Operator Training and Registration.

(a) To meet the Operator Training requirement (42 USC Section 6991i) of the Solid Waste Disposal Act as amended by the Energy Policy Act of 2005, each UST facility shall[~~, by January 1, 2012,~~] have UST facility operators that are trained and registered according to the requirements of this section. Each facility shall have three classes of operators: A, B, and C.

(1) A facility may have more than one person designated for each operator class.

(2) An individual acting as a Class A or B operator may do so for more than one facility.

(b) The UST owner or operator shall provide documentation to the Director to identify the Class A, B, and C operators for each facility. If an owner or operator does not register and identify Class A, B, and C operators for a facility, the certificate of compliance for the facility may be revoked for failure to demonstrate substantial compliance with all state and federal statutes, rules and regulations.

(c) [~~After January 1, 2012, n~~]New Class A and B operators shall be trained and registered within 30 days of assuming responsibility for an UST facility. New Class C operators shall be trained before assuming the responsibilities of a Class C operator.

(d) The Class A operator shall be an owner, operator, employee, or individual designated under Subsection R311-201-12(d)(2). The Class A operator has primary responsibility for the broader aspects of the statutory and regulatory requirements and standards necessary to operate and maintain the UST system.

(1) The Class A operator shall:

(A) have a general knowledge of UST systems;

(B) ensure that UST records are properly maintained according to 40 CFR 280;

(C) ensure that yearly UST fees are paid;

(D) ensure proper response to and reporting of emergencies caused by releases or spills from USTs;

(E) make financial responsibility documents available to the Director as required; and

(F) ensure that Class B and Class C operators are trained and registered.

(2) An owner or operator may designate a third-party Class B operator as a Class A operator if:

(A) the UST owner or operator is a financial institution or person who acquired ownership of an UST facility solely to protect a security interest in that property and has not operated the USTs at the facility;

(B) all USTs at the facility are properly temporarily closed in accordance with 40 CFR 280.70 and Section R311-204-4; and

(C) all USTs at the facility are empty in accordance with 40 CFR 280.70(a).

(e) The Class B operator shall implement routine daily aspects of operation, maintenance, and recordkeeping for UST systems. The Class B operator shall be an owner, operator, employee, or third-party Class B operator. The Class B operator shall:

(1) ensure that on-site UST operator inspections are conducted according to the requirements of S[~~ubs~~]ection R311-20[~~1-12(h)~~]3-7;

(2) ensure that UST release detection is performed according to 40 CFR 280 subpart D;

(3) ensure that the status of the UST system is monitored [~~every seven days~~]for alarms and unusual operating conditions that may indicate a release;

(4) document the reason for an alarm or unusual operating condition identified in Subsection R311-201-12(e)(3), if it is not reported as a suspected release according to 40 CFR 280.50;

(5) ensure that appropriate release detection and other records are kept according to 40 CFR 280.34 and 280.45, and are made available for inspection;

(6) ensure that spill prevention, overfill prevention, and corrosion protection requirements are met;

(7) be on site for facility compliance inspections, or designate another individual to be on site for inspections;

(8) ensure that suspected releases are reported according to the requirements of 40 CFR 280.50; and

(9) ensure that Class C operators are trained and registered, and are on-site during operating hours.

(f) A[~~fter January 1, 2012, a~~]ny individual providing services as a third-party Class B operator shall be trained and registered in accordance with Subsection R311-201-12([~~j~~]h) and shall:

(1) be certified in accordance with Rule R311-201 as:

(A) a UST Tester, or

(B) a UST installer as either a general installer or service/repair technician, or

(2) meet the training requirements of a certified UST inspector and document comprehensive or general liability insurance with limits of $250,000 minimum per occurrence.

(g) The Class C operator is an employee and is generally the first line of response to events indicating emergency conditions. A Class C operator shall:

(1) be present at the facility at all times during normal operating hours;

(2) monitor product transfer operations according to 40 CFR 280.30(a), to ensure that spills and overfills do not occur;

(3) properly respond to alarms, spills, and overfills;

(4) notify Class A and/or Class B operators and appropriate emergency responders when necessary; and

(5) act in response to emergencies and other situations caused by spills or releases from an UST system that pose an immediate danger or threat to the public or to the environment, and that require immediate action.

(h) [~~UST Operator Inspections.~~

~~(1) Each UST facility shall have an on-site operator inspection conducted every 30 days, or as approved under Subsection R311-201-12(h)(4) or (5). The inspection shall be performed by or under the direction of the designated Class B operator. The Class B operator shall ensure that documentation of each inspection is kept and made available for review by the Director.~~

~~(2) The UST operator inspection shall document that:~~

~~(A) release detection systems are properly operating and maintained;~~

~~(B) spill, overfill, vapor recovery, and corrosion protection systems are in place and operational;~~

~~(C) tank top manways, tank and dispenser sumps, secondary containment sumps, and under-dispenser containment are intact, and are properly maintained to be free of water, product, and debris;~~

~~(D) alarm conditions that could indicate a release are properly investigated and corrected, and are reported as suspected releases according to 40 CFR 280.50 or documented to show that no release has occurred; and~~

~~(E) unusual operating conditions and other indications of a release or suspected release indicated in 40 CFR 280.50 are properly reported.~~

~~(3) The individual conducting the inspection shall use the form "UST Operator Inspection- Utah" to conduct on-site operator inspections. The form, dated June 3, 2014, and including information required to be completed during the inspection, is hereby incorporated by reference.~~

~~(4) The Director may allow operator inspections to be performed less frequently in situations where it is impractical to conduct an inspection every 30 days. The owner or operator shall request the exemption, justify the reason for the exemption, and submit a plan for conducting operator inspections at the facility.~~

~~(5) An UST facility whose tanks are properly temporarily closed according to 40 CFR 280.70 and R311-204-4 shall have an operator inspection every 90 days.~~

~~(i) A facility that normally has no employee or other responsible person on site, or is open to dispense fuel at times when no employee or responsible person is on site, shall have:~~

~~(1) a sign posted in a conspicuous place, giving the name and telephone number of the facility owner, operator, or local emergency responders, and~~

~~(2) an emergency shutoff device in a readily accessible location, if the facility dispenses fuel.~~

~~(j)~~]Operator Training and Registration

(1) Training and testing.

(A) Applicants for Class A and B operator registration shall successfully complete an approved operator training course within the six-month period prior to application.

(B) The training course shall be approved by the Director, and shall include instruction in the following: notification, temporary and permanent closure, installation permitting, underground tank requirements of the 2005 Energy Policy Act, Class A, B, and C operator responsibilities, spill prevention, overfill prevention, UST release detection, corrosion protection, record-keeping requirements, emergency response, product compatibility, Utah UST rules and regulations, UST financial responsibility, and delivery prohibition.

(C) Applicants for Class A and B operator registration shall successfully pass a registration examination authorized by the Director. The Director shall determine the content of the examination.

(D) An individual applying for Class A or B operator registration may be exempted from meeting the requirements of Subsections R311-201-12([~~j~~]h)(1)(A) and (C) by completing the following within the six-month period prior to application:

(i) successfully passing a nationally recognized UST operator examination approved by the Director, and

(ii) successfully passing a Utah UST rules and regulations examination authorized by the Director. The Director shall determine the content of the examination.

(E) Class C operators shall receive instruction in product transfer procedures, emergency response, and initial response to alarms and releases.

(2) Registration application.

(A) Applicants for Class A and B operator registration shall submit a registration application to the Director, shall document proper training, and shall pay any applicable fees.

(B) Class C operators shall be designated by a Class B operator. The Class B operator shall maintain a list identifying the Class C operators for each UST facility. The list shall identify each Class C operator, the date of training, and the trainer. Identification on the list shall serve as the operator registration for Class C operators.

(C) A registered Class A or B operator may act as a Class C operator by meeting the training and registration requirements for a Class C operator.

(D) Class A and B registration shall be effective for a period of three years, and shall not lapse or [~~expire~~]become inactive if the registered operator leaves the employment of the company under which the registration was obtained.

(3) Renewal of registration.

(A) Class A and B operators shall apply for renewal of registration not more than six months prior to the expiration of the registration by:

(i) submitting a completed application form;

(ii) paying any applicable fees; and

(iii) documenting successful completion of any re-training required by Subsection R311-201-12([~~k~~]i).

(B) If the Director determines that the operator meets all the requirements for registration, the Director shall renew the applicant's registration for a period equal to the initial registration.

(C) Any applicant for renewal who has a registration that has been expired for more than two years prior to submitting a renewal application shall successfully satisfy the training and examination requirements for initial registration under Subsection R311-201-12([~~j~~]h)(1) before receiving the renewal registration.

([~~k~~]i) Re-training.

(1) A Class A operator shall be subject to re-training requirements if any facility for which the Class A operator has oversight is found to be out of compliance due to:

(A) lapsing of certificate of compliance;

(B) failure to provide acceptable financial responsibility; or

(C) failure to ensure that Class B and C operators are trained and registered.

(2) A Class B operator shall be subject to re-training requirements if a facility for which the Class B operator has oversight is found to be out of compliance due to:

(A) failure to document significant operational compliance, as determined by the EPA Release Prevention Compliance Measures Matrix and Release Detection Compliance Measures Matrix, both incorporated by reference in

Subsection R311-206-10(b)(1);

(B) failure to perform UST operator inspections required by S[~~ubs~~]ection R311-20[~~1-12(h)~~]3-7; or

(C) failure to ensure that Class C operators are trained and registered, and are on-site during operating hours.

(3) To be re-trained, Class A and Class B operators shall successfully complete the appropriate Class A or B operator training course and examination, or shall complete an equivalent re-training course and examination approved by the Director.

(4) Class A and B operators shall be re-trained within 90 days of the date of the determination of non-compliance, and shall submit documentation showing successful completion of the re-training to the Director within 30 days of the re-training. If the documentation is not received by the Director within 120 days of the date of the determination of non-compliance, [~~the Director may revoke the certificate of compliance for the facility for failure to demonstrate substantial compliance with all state and federal statutes, rules and regulations.~~

~~(5) If the documentation of re-training is not received by the Director within six months of the date of determination of non-compliance,~~]the Class A or B operator's registration shall lapse. To re-register, the operator shall meet the requirements of Subsection R311-201-12([~~j~~]h)(1) and (2).

([~~6~~]5) If a facility for which a Class A or B operator has oversight is found to be out of compliance under Subsections R311-201-12([~~k~~]i)(1) or (2), re-training shall not be required if the Class A or B operator successfully completes and documents re-training under Subsections R311-201-12([~~k~~]i)(3) and (4) for a prior determination of non-compliance that occurred during the previous nine months.

([~~l~~]j) Reciprocity.

(1) If the Director determines that another state's operator training program is equivalent to the operator training program provided in this rule, he may accept an applicant's Class A or Class B registration application, provided that the applicant:

(A) submits a completed application form;

(B) passes the Utah UST rules and regulations examination referenced in Subsection R311-201-12([~~j~~]h)(1)(D)(ii), and

(C) submits payment of any applicable registration fees.

(2) The Class A or Class B registration shall be valid until the Utah registration expiration described in Subsection R311-201-12([~~j~~]h)(2)(D).

KEY: hazardous substances, administrative proceedings, underground storage tanks, revocation procedures
Date of Enactment or Last Substantive Amendment: October 10, 2014
Notice of Continuation: April 10, 2012
Authorizing, and Implemented or Interpreted Law: 19-1-301; 19-6-105; 19-6-402; 19-6-403; 63G-4-102; 63G-4-201 through 205; 63G-4-503

R311. Environmental Quality, Environmental Response and Remediation.
R311-202. Federal Underground Storage Tank [~~Technical Standards~~]Regulations.
R311-202-1. Incorporation by Reference.

[~~40 CFR Part 280 in effect as of December 6, 1995, is hereby adopted and incorporated by reference.~~]This rule incorporates by reference 40 CFR Part 280, the federal underground storage tank regulations, in effect as of October 13, 2015, except that:

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

(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;

(c) 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

(d) 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.

KEY: hazardous substances, petroleum, underground storage tanks[~~*~~]
Date of Enactment or Last Substantive Amendment: September 16, 1996
Notice of Continuation: April 10, 2012
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403

R311. Environmental Quality, Environmental Response and Remediation.
R311-203. Underground Storage Tanks: Technical Standards.
R311-203-1. Definitions.

Definitions are found in Rule R311-200.

R311-203-2. Notification.

(a) The owner or operator of an underground storage tank shall notify the Director whenever:

(1) new USTs are brought into use;

(2) the owner or operator changes;

(3) changes are made to the tank or piping system; and

(4) release detection, corrosion protection, or spill or overfill prevention systems are installed, changed or upgraded[~~, and~~

~~(5) whenever an alternative fuel is stored in the tank~~].

(b) All notifications shall be submitted on the current approved notification form.

([~~1~~]c) Notifications submitted to meet the requirements of R311-203-2(a)(1) through (4) shall be submitted within 30 days of the completion of the work or the change of ownership.

[~~(2) Notifications submitted to meet the requirement of R311-203-2(a)(5) shall be submitted at least 10 days, or another time period approved by the Director, prior to storing an alternative fuel in the tank.~~]

([~~c~~]d) To satisfy the requirement of Subsection 19-6-407(1)(c) the certified installer shall:

(1) complete the appropriate section of the notification form to be submitted by the owner or operator, and ensure that the notification form is submitted by the owner or operator within 30 days of completion of the installation; or

(2) provide separate notification to the Director within 60 days of the completion of the installation.

R311-203-3. New Installations, Permits.

(a) Certified UST installers shall notify the Director at least 10 days, or another time period approved by the Director, before commencing any of the following activities:

(1) the installation of a full UST system or tank only;

(2) the installation of underground product piping for one or more tanks at a facility, separate from the installation of one or more tanks at a facility;

(3) the internal lining of a previously-existing tank;

(4) the installation of a cathodic protection system on one or more previously-existing tanks at a facility[~~where the structural integrity of the UST was required to be assessed, or where there is no documentation of a properly-working cathodic protection system on the UST within 10 years of the proposed upgrade~~];

(5) the installation of a bladder in a tank;

(6) any retro-fit, replacement, or installation that requires the cutting of a manway into the tank;

(7) the installation of a spill prevention or overfill prevention device;

(8) the installation of a leak detection monitoring system; and

(9) the installation of a containment sump or under-dispenser containment.

(b) The UST installation company shall submit to the Director an UST installation permit fee of $200 when any of the activities listed in R311-203-3(a)(1) through (6) is performed on an UST system that has not qualified for a certificate of compliance before the commencement of the work.

(c) The fees assessed under 19-6-411(2)(a)(i) shall be determined based on the number of full UST installations performed by the installation company in the 12 months previous to the fee due date. Installations for which the fee assessed under 19-6-411(2)(a)(ii) and R311-203-3(c) is charged shall count toward the total installations for the 12-month period.

(d) For the purposes of Subsections 19-6-411(2)(a)(ii), 19-6-407(1)(c), and R311-203-2([~~c~~]d), an installation shall be considered complete when:

(1) in the case of installation of a new UST system, tank only, or product piping only, the new installation first holds a regulated substance; or

(2) in the case of installation of the components listed in Subsections R311-203-3(a)(3) through (a)(6), the new installation is functional and the UST holds a regulated substance and is operational.

(e) If, before completion of an installation for which an UST installation permit fee is required, the owner or operator decides to install additional UST system components, the installer shall notify the Director of the change. When additions are made, the UST installation permit fee shall not be increased unless the original UST installation permit fee would have been higher had the addition been considered at the time the original fee was determined.

(f) The number of UST installation companies performing work on a particular installation shall not be a factor in determining the UST installation permit fee for that installation. However, each installation company shall identify itself at the time the UST installation permit fee is paid.

(g) When a new UST system, tank only, product piping only, or new cathodic protection system is installed, the owner or operator shall submit to the Director an as-built drawing, to scale, that meets the requirements of R311-200-1(b)([~~3~~]2).

R311-203-4. Underground Storage Tank Registration Fee.

(a) Registration fees shall be assessed by the Department against all tanks which are not permanently closed for the entire fiscal year, and shall be billed per facility.

(b) Registration fees shall be due on July 1 of the fiscal year for which the assessment is made, or, for underground storage tanks brought into use after the beginning of the fiscal year, underground storage tank registration fees shall be due when the tanks are brought into use, as a requirement for receiving a certificate of compliance.

(c) The Director may waive all or part of the penalty assessed under Subsection 19-6-408(5) if no fuel has been dispensed from the tank on or after July 1, 1991 and if the tank has been properly closed according to [~~Sections~~]Rules R311-204 and R311-205, or in other circumstances as approved by the Director.

(d) The Director shall issue a certificate of registration to owners or operators for individual underground storage tanks at a facility if:

(1) the tanks are in use or are temporarily closed according to 40 CFR Part 280 Subpart G; and,

(2) the underground storage tank registration fee has been paid.

(e) Pursuant to 19-6-408(5)(c), all past due registration fees, late payment penalties and interest must be paid before the Director may issue or re-issue a certificate of compliance regardless of whether there is a new owner or operator at the facility. However, the Director may decline active collection of past due registration fees, late payment penalties and interest if a certificate of compliance is not issued and the new owner or new operator properly closes the underground storage tanks within one year of becoming the new owner or operator of the facility.

(f) An underground storage tank will be assessed the higher registration fee established under Section 63J-1-504 if it is found to be out of significant operational compliance with leak prevention or leak detection requirements during an inspection, and remains out of compliance for six months or greater following the initial inspection. The higher registration fee shall be due July 1 following the documented six-month period of non-compliance. A tank will be out of significant operational compliance if it fails to meet any of the significant operational compliance measures stated in the EPA compliance measures matrices incorporated by Subsection R311-206-10(b)(1).

(g) When the Director is notified of the existence of a previously un-registered regulated UST, the Director shall assess the registration fee for the current fiscal year. If the UST is properly permanently closed within 90 days of the notification of the existence of the UST, the Director may decline active collection of past-due registration fees, late payment penalties, and interest for previous fiscal years.

R311-203-5. UST Testing Requirements.

(a) Tank tightness testing. The testing method must be able to test the UST system at the maximum level that could contain regulated substances. Tanks with overfill prevention devices that prevent product from entering the upper portion of the tank may be tested at the maximum level allowed by the overfill device.

(b) [~~Automatic line leak detector testing. Line leak detectors shall be tested annually for functionality~~

~~according to 40 CFR 280.44(a) and R311-200-1(b)(4). An equivalent test may be approved by the Director. The test shall simulate a leak and provide a determination based on the test whether the leak detector functions properly and meets the requirements of 40 CFR 280.44(a). If a sump sensor is used as an automatic line leak detector, the sensor shall be located as close as is practical to the lowest portion of the sump.~~]Spill prevention equipment. An individual who conducts a test of spill prevention equipment to meet the requirements of 40 CFR 280.35(a)(1)(ii) shall report the test results using:

(1) the form "Utah Spill Prevention Test", or

(2) the form "Appendix C-3 Spill Bucket Integrity Testing Hydrostatic Test Method Single and Double-Walled Vacuum Test Method", found in PEI RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities", or

(3) another form approved by the Director.

(c) Containment sump testing. An individual who conducts a test of a containment sump used for interstitial monitoring to meet the requirements of 40 CFR 280.35(a)(1)(ii) or a test of a piping containment sump or under-dispenser containment to meet the requirements of R311-206-11 shall report the test results using:

(1) the form "Utah Containment Sump Test", or

(2) the form "Appendix C-4 Containment Sump Integrity Testing Hydrostatic Testing Method", found in PEI RP1200, or

(3) another form approved by the Director.

(d) When a sump sensor is used as an automatic line leak detector, the secondary containment sump shall be tested for tightness annually according to the manufacturer's guidelines or standards, or by another method approved by the Director. The sensor shall be located as close as is practicable to the lowest portion of the sump.

([~~d~~]e) Cathodic protection testing. Cathodic protection tests shall meet the inspection criteria outlined in 40 CFR 280.31(b)[~~(2)~~], or other criteria approved by the Director. The tester who performs the test shall provide the following information: location of at least three test points per tank, location of one remote test point for galvanic systems, test results in volts or millivolts, pass/fail determination for each tank, line, flex connector, or other UST system component tested, the criteria by which the pass/fail determination is made, and a site plat showing locations of test points. A re-test of any cathodic protection system is required within six months of any below-grade work that may harm the integrity of the system.

([e]f) UST testers performing tank and line tightness testing shall include the following as part of the test report: pass/fail determination for each tank or line tested, the measured leak rate, the test duration, the product level for tank tests, the pressure used for pressure tests, the type of test, and the test equipment used.

R311-203-6. Secondary Containment and Under-dispenser Containment.

(a) Secondary containment for tanks and piping.

(1) To meet the requirements of Section 42 USC 6991b(i) of the Solid Waste Disposal Act, all tanks and product piping that are installed as part of an underground storage tank system after October 1, 2008 and before January 1, 2017 shall have secondary containment if the installation is located 1000 feet or less from an existing community water system or an existing potable drinking water well.

(2) The secondary containment installed under Subsection (a) shall meet the requirements of 40 CFR 280.42(b), and shall be monitored monthly for releases from the tank and piping. Monthly monitoring shall meet the requirements of 40 CFR 280.43(g).

(3) Containment sumps for piping that is installed under Subsection (a) shall be required:

(A) at the submersible pump or other location where the piping connects to the tank;

(B) where the piping connects to a dispenser, or otherwise goes above-ground; and

(C) where double-walled piping that is required under Subsection (a) connects with existing piping.

(4) Containment sumps for piping that is installed under Subsection (a) shall:

(A) contain submersible pumps, check valves, unburied risers, flexible connectors, and other transitional components that connect the piping to the tank, dispenser, or existing piping; and

(B) meet the requirements of Subsections (b)(2)(A) through (C).

(5) In the case of a replacement of tank or piping, only the portion of the UST system being replaced shall be subject to the requirements of Subsection (a). If less than 100 percent of the piping from a tank to a dispenser is replaced, the requirements of Subsection (a) shall apply to all new product piping that is installed. The closure

requirements of R311-205 shall apply to all product piping that is taken out of service. When new piping is connected to existing piping that is not taken out of service, the connection between the new and existing piping shall be secondarily contained, and shall be monitored for releases according to 40 CFR 280.43(g).

(6) The requirements of Subsection (a) shall not apply to:

(A) piping that meets the requirements for "safe suction" piping in 40 CFR 280.41(b)(2)(i) through (v), or

(B) piping that connects two or more tanks to create a siphon system.

(7) The requirements of Subsection (a) shall apply to emergency generator USTs installed after October 1, 2008.

(b) Under-dispenser containment.

(1) To meet the requirements of Section 42 USC 6991b(i) of the Solid Waste Disposal Act, all new motor fuel dispenser systems installed after October 1, 2008 and before January 1, 2017, and connected to an underground storage tank, shall have under-dispenser containment if the installation is located 1000 feet or less from an existing community water system or an existing potable drinking water well.

(2) The under-dispenser containment shall:

(A) be liquid-tight on its sides, bottom, and at all penetrations;

(B) be compatible with the substance conveyed by the piping; and

(C) allow for visual inspection and access to the components in the containment system, or shall be continuously monitored for the presence of liquids.

(3) If an existing dispenser is replaced, the requirements of Subsection (b) shall apply to the new dispenser if any equipment used to connect the dispenser to the underground storage tank system is replaced. This equipment includes unburied flexible connectors, risers, and other transitional components that are beneath the dispenser and connect the dispenser to the product piping.

(c) The requirements of Subsections (a) and (b) shall not apply if the installation is located more than 1000 feet from an existing community water system or an existing potable drinking water well.

(1) The UST owner or operator shall provide to the Director documentation to show that the requirements of Subsections (a) and (b) to not apply to the installation. The documentation shall be provided at least 60 days before the beginning of the installation, and shall include:

(A) a detailed to-scale map of the proposed installation that demonstrates that no part of the installation is within 1000 feet of any community water system, potable drinking water well, or any well the owner or operator plans to install at the facility, and

(B) a certified statement by the owner or operator explaining who researched the existence of a community water system or potable drinking water well, how the research was conducted, and how the proposed installation qualifies for an exemption from the requirements of Subsections (a) and (b).

(d) To determine whether the requirements of Subsections (a) and (b) apply, the distance from the UST installation to an existing community water system or existing potable drinking water well shall be measured from the closest part of the new underground tank, piping, or motor fuel dispenser system to:

(1) the closest part of the nearest community water system, including:

(A) the location of the wellheads for groundwater and/or the location of the intake points for surface water;

(B) water lines, processing tanks, and water storage tanks; and

(C) water distribution/service lines under the control of the community water system operator, or

(2) the wellhead of the nearest existing potable drinking water well.

(e) If a new underground storage tank facility is installed, and is not within 1000 feet of an existing community water system or an existing potable drinking water well, the requirements of Subsections (a) and (b) apply if the owner or operator installs a potable drinking water well at the facility that is within 1000 feet of the underground tanks, piping, or motor fuel dispenser system, regardless of the sequence of installation of the UST system, dispenser system, and well.

(f) To meet the requirements of 40 CFR 280.20, all tanks and product piping that are installed or replaced as part of an underground storage tank system on or after January 1, 2017 shall be secondarily contained and use interstitial monitoring in accordance with 40 CFR 280.43(g).

R311-203-7. Operator Inspections.

(a) Owners and operators shall perform periodic inspections in accordance with 40 CFR 280.36. Inspections

shall be conducted by or under the direction of the designated Class B operator. The Class B operator shall ensure that documentation of each inspection is kept and made available for review by the Director.

(b) The individual who conducts inspections to meet the requirements of 40 CFR 280.36(a)(1) or (a)(3) shall use the form "UST Operator Inspection- Utah" or another form approved by the Director.

(c) The Director may allow operator inspections to be performed less frequently in situations where it is impractical to conduct an inspection every 30 days. The owner or operator shall request the exemption, justify the reason for the exemption, and submit a plan for conducting operator inspections at the facility.

(d) An UST facility whose tanks are properly temporarily closed according to 40 CFR 280.70 and R311-204-4 shall have an annual operator inspection.

(e) An owner or operator who conducts visual checks of tank top containment sumps and under dispenser containment sumps for compliance with piping leak detection in accordance with 40 CFR 280.43(g) shall conduct the visual checks monthly and report the results on the operator inspection form.

R311-203-8. Unattended facilities.

(a) A facility that normally has no employee or other responsible person on site, or is open to dispense fuel at times when no employee or responsible person is on site, shall have:

(1) a sign posted in a conspicuous place, giving the name and telephone number of the facility owner, operator, or local emergency responders, and

(2) an emergency shutoff device in a readily accessible location, if the facility dispenses fuel.

KEY: fees, hazardous substances, petroleum, underground storage tanks
Date of Enactment or Last Substantive Amendment: February 14, 2011
Notice of Continuation: April 10, 2012
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403; 19-6-408

R311. Environmental Quality, Environmental Response and Remediation.
R311-206. Underground 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.

(a) To demonstrate financial assurance, as required by 40 CFR 280, subpart H, owners or operators of petroleum storage tanks shall:

(1) meet all requirements for participation in the Environmental Assurance Program, or

(2) demonstrate financial assurance by an allowable method specified in 40 CFR 280, subpart H.

(b) Owners or operators shall declare whether they will participate in the Environmental Assurance Program under Section 19-6-410.5, or show financial assurance by another method.

(c) For the purposes of Subsection 19-6-412(6), all tanks at a facility shall be covered by the same financial assurance mechanism, and shall 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.

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

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

(2) the tank is substantially in compliance with all state and federal statutes, rules and regulations;

(3) the UST test, conducted within 6 months before the tank was registered or within 60 days after the date the tank was registered, indicates that each individual UST is not leaking;

(4) 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;

(5) the owner or operator has submitted a completed application according to a form provided and approved

by the Director, and has declared the financial assurance mechanism that will be used;

(6) the owner or operator has met all requirements for the financial assurance mechanism chosen, including payment of all applicable fees;[~~ and~~]

(7) the owner or operator has submitted an as-built drawing that meets the requirements of R311-200-1(b)([~~3~~]2)[~~.~~]; and

(8) 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.

(a) 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.

(b) 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 shall be due when the tank is brought into use, as a requirement for receiving a Certificate of Compliance.

(c) In accordance with Subsection 19-6-411(6), the Director may waive all or part of the fees required to be paid on or before May 5, 1997 under Section 19-6-411 if no fuel has been dispensed from the tank on or after July 1, 1991, and if the tank has been properly closed according to Rules R311-204 and R311-205, or in other circumstances as approved by the Director.

(d) 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.

(e) Auditing of UST facility throughput records[~~ for fiscal year 1998~~].

(1) Owners and operators shall retain for seven years the monthly tank throughput records of the facility[~~ for the months of July 1997 through June 1998~~]. Tank throughput records shall include all financial and product documentation for receipts, dispositions and inventories.

(2) The Director may audit or order an audit, by an independent auditor, of records which support the amount of throughput, for each tank at a participant's facility.

(A) Records shall be made available at the Department for inspection within 30 calendar days after receiving notice from the Director.

(B) 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.

(C) Auditing tank throughput may be accomplished by any method approved by the Director.

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

(f) Owners or operators eligible for coverage by the Fund shall demonstrate financial assurance for the difference between coverage provided by the Fund and coverage amounts required by 40 CFR 280 Subpart H. If the owner or operator chooses self-[-]insurance as the mechanism for demonstrating financial assurance for the difference, the owner or operator must document a tangible net worth of $10,000 upon request and to the satisfaction of the Director. An owner or operator may also select and document another mechanism specified in 40 CFR 280.94 to demonstrate financial assurance for the difference. The processing fee requirement referenced in Subsection R311-206-5(b) is not applicable because the administrative cost is covered by the PST fund fee. However, the Director may require the owner or operator to submit an independent audit to demonstrate net worth for self-[–]insurance. The owner or operator shall bear the expense for the audit. The criteria for an audit are the same as set forth in Subsection R311-206-4(e)(2).

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

(a) Owners and operators who elect to utilize an alternate form of financial assurance shall use one or a combination of mechanisms specified in 40 CFR 280.94. Owners and operators shall submit to the Director the documents required by 40 CFR 280.111 to be kept and maintained for the mechanism used.

(1) 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.

(2) 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.

(b) The processing fee established in Subsection 19-6-408(2)[~~(a)~~] 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. Processing fees for subsequent [~~yearly~~]reviews of [~~a~~]financial assurance documents shall be due on July 1 [~~annually~~]of the fiscal year for which the review is required.

(1) 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. 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 280.95-280.[~~107~~]102 and 280.104-280.107. 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(b) above.

(2) 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.

(c) Evidence of a current and approved financial assurance mechanism shall be reported to the Director [~~each year~~]as follows:

(1) Owners and operators using the financial test of self-[–]insurance shall submit the "Letter from Chief Financial Officer" to the Director within the maximum 120 day period specified in 40 CFR 280.95.

(2) Owners and Operators using insurance and risk retention group coverage for financial assurance shall 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.

(A) If the insurance policy or risk retention group coverage is cancelled, 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 40 CFR 280.97(b)(2)2.d. to the Director as well as the insured.

(B) The insurer shall have a rating of A- or greater by A.M. Best Co.

(3) Owners and operators using an irrevocable letter of credit shall 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.

(4) Owners and operators using a fully funded trust fund for financial assurance shall submit proof of the trust fund and formal certification of acknowledgement to the Director within 30 days after implementation of the trust fund.

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

(6) Owners and operators using a surety bond for financial assurance shall submit the surety bond document, standby trust fund, and certification of acknowledgement to the Director within 30 days of issuance.

(7) 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.

(8) Owners and operators using one of the local government methods specified in 40 CFR 280.104 through 107 shall submit the letter from chief financial officer and associated documents to the Director within 120 days of the end of the owner/operator's or guarantor's fiscal year.

(d) 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. Information requested shall be reported to the Director within 30 calendar days after receiving the request.

(1) Owners and operators shall maintain evidence of all financial assurance mechanisms as specified in 40 CFR 280.111.

(2) Owners and operators shall keep records of all financial assurance mechanisms for a period of three years.

(3) The Director may audit or order an audit of records supporting the financial assurance mechanism at any time.

(A) 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.

(B) Auditing of financial assurance methods may be accomplished by any method approved by the Director.

(e) Any and all costs of securing a selected financial assurance mechanism and generating and providing the necessary reporting evidence of an assurance mechanism to the Director shall be the sole responsibility of the owner or operator.

(f) 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 Storage Tanks and above-ground storage tanks to the Environmental Assurance Program.

(a) Owners or operators of eligible exempt underground storage tanks specified in Subsection 19-6-415(1)(a) may voluntarily participate in the Environmental Assurance Program by:

(1) meeting the requirements of Subsection 19-6-415(1) and Subsection R311-206-3(a);

(2) properly performing release detection according to the requirements of 40 CFR Part 280 Subpart D; and

(3) meeting the upgrade requirements in 40 CFR 280.21 or the new tank requirements in 40 CFR 280.20, as applicable.

(b) Owners or operators of above-ground storage tanks may voluntarily participate in the Environmental Assurance Program by:

(1) meeting the requirements of Subsection 19-6-415(2) and Subsection R311-206-3(a);

(2) meeting applicable requirements of the Utah State Fire Code adopted pursuant to Section [~~53-7-106~~]15A-1-403;

(3) performing an annual line tightness test of all underground product piping, or documenting monthly monitoring of sensor-equipped double-walled underground product piping; and

(4) performing a tightness test of all above-ground tanks every five years, using a tightness test method capable of properly testing the tank.

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

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

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

(c) A petroleum storage tank 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 Subsection 19-6-412(2) and Section R311-206-3.

(d) A petroleum storage tank owner or operator who has had eligibility to receive payments for claims against the fund lapse under Section 19-6-411(3)(c)(ii) shall meet the requirements of Subsection 19-6-428(3) and pay all fees, interest, and penalties due to reinstate eligibility.

(e) Upon permanent closure of a tank which is covered by the Fund, the eligibility to make a claim against the Fund shall terminate as specified in Section R311-207-2. Permanently closed tanks are not eligible to be reissued a certificate of compliance.

(f) 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 40 CFR 280, which requires release reporting, abatement, investigation, corrective action, or other measures to bring the release site under control.

R311-206-8. Delivery Prohibition.

(a) In accordance with Subsection 19-6-411(7), the Director shall authorize the placement of a delivery prohibition tag identifying a tank:

(1) for which the certificate of compliance has been revoked in accordance with Section 19-6-414, or

(2) for which the certificate of compliance has lapsed for non-payment of fees in accordance with Subsection

19-6-408(5), or

(3) that has never qualified for a certificate of compliance, and is not a new installation under Subsection R311-206-8(a)(4), or

(4) that is a new installation, and has not been issued a certificate of compliance.

(b) 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 tank as soon as practicable after the determination is made that a tank:

(1) does not have spill prevention equipment required under 40 CFR 280.20(c) or 40 CFR 280.21(d), or

(2) does not have overfill prevention equipment required under 40 CFR 280.20(c) or 40 CFR 280.21(d), or

(3) does not have equipment required for tank or piping leak detection in accordance with 40 CFR 280 Subpart D, or

(4) does not have equipment required for tank or piping corrosion protection in accordance with 40 CFR 280 Subpart B or C.

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

(d) 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 R311-206-8(e).

(e) The Director may issue written approval for a delivery of petroleum to:

(1) provide ballast for a new tank during installation, or

(2) allow for the tank tightness test required under Section 19-6-413.

(f) The delivery prohibition tag shall remain in place until the Director issues:

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

(A) a new certificate of compliance for the tank, and

(B) written authorization to remove the delivery prohibition tag, or

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

(A) written authorization to remove the delivery prohibition tag.

(g) If a delivery prohibition tag is removed without the authorization specified in Subsection R311-206-8(f)(1)(B) or Subsection R311-206-8(f)(2)(A), the UST owner or operator shall be subject to:

(1) a re-inspection and any applicable fees, and

(2) placement of a new delivery prohibition tag on the tank.

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

(a) Owners and operators of petroleum storage tanks who have voluntarily elected to participate in the Environmental Assurance Program may cease participation in the program and be exempted from the requirements described in Section R311-206-4 by:

(1) permanently closing tanks as outlined in 40 CFR 280, subpart G, Rule R311-204, and Rule R311-205, or

(2) meeting the following requirements:

(A) demonstrating compliance with Section R311-206-5, and

(B) notifying the Director in writing at least 30 days before the date of cessation of participation in the program, and specifying the date of cessation.

(i) The Director may waive the 30-day requirement if the owner or operator has already documented current financial assurance under R311-206-5 for other USTs owned or operated by the owner or operator.

(ii) The date of cessation of participation in the program may occur after the date designated in Subsection R311-206-9(a)(2)(B) if the owner or operator does not document compliance with R311-206-5 by the date originally designated.

(b) The fund will not give pro-rata refunds.

(c) For tanks being removed voluntarily from the program, the date of cessation of participation in the program shall be the date on which coverage under the program ends. Subsequent claims for payments from the fund must be made in accordance with Section 19-6-424 and Section R311-207-2.

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

(a) Owners and operators who choose not to participate in the Environmental Assurance Program shall,

before any subsequent participation in the program, meet the following requirements:

(1) notify the Director of the intent to participate in the program;

(2) comply with the requirements of Subsection 19-6-428(3), and

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

(b) In accordance with Subsection 19-6-428(3)(b), the Director may determine that there is reasonable cause to believe that no petroleum has been released if the owner or operator, for each UST to participate in the program, meets the following requirements at the time the owner or operator applies for participation:

(1) The last two compliance inspections verify significant operational compliance, and verify that no release has occurred. Significant operational compliance status shall be determined using the EPA Release Prevention Compliance Measures Matrix and Release Detection Compliance Measures Matrix, both dated March 3, 2005 and incorporated herein by reference. The matrices contain leak prevention and leak detection criteria to be used by inspectors in determining compliance status of underground storage tanks.

(2) The owner or operator documents compliance with all release prevention and release detection requirements that are required for the time period since the last compliance inspection, and the records submitted do not give reason to suspect a release has occurred. The owner or operator shall submit:

(i) tank and piping leak detection records, or a tank and line tightness test performed within the last six months;

(ii) the most recent simulated leak test for all automatic line leak detectors;

(iii) cathodic protection tests, if applicable, and

(iv) internal lining inspections, if applicable.

(3) The period of non-participation in the Program is less than six months, or the UST is less than ten years old.

R311-206-11. Environmental Assurance Fee Rebate Program.

(a) To meet the requirements of Subsection 19-6-410.5(5)(d), each UST Facility participating in the Program shall receive a risk value calculated according to "Environmental Assurance Program Risk Factor Table and Calculation", which is hereby incorporated by reference. The table, dated June 2, 2014, contains risk factors and the formula for risk value calculation.

(b) The risk value for each facility participating in the Environmental Assurance Program shall be:

(1) calculated on a facility basis;

(2) valid for the calendar year;

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

(4) determined, at sites with mixed equipment, by considering the highest risk-valued UST system component for each risk factor.

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

(1) meet the requirements for secondary containment in [~~Section R311-203-6~~]40 CFR 280.20, and

(2) meet one of the following:

(A) [~~have continuous~~]use an interstitial sensor and documentation of monthly interstitial monitoring, or

(B) documentation of monthly visual checks of a brine-filled interstitial space, or

(C) have the interstitial space tested at least once every three years and be documented to be tight by using vacuum, pressure, or liquid testing in accordance with one of the following:

(i) [~~R~~]requirements developed by the manufacturer, or

(ii) [~~A~~]a Code of Practice developed by a nationally recognized association or independent testing laboratory.

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

(1) meet the requirements for secondary containment outlined in [~~Section R311-203-6~~]40 CFR 280.20, and

(2) meet one of the following:

(A) [~~have continuous~~]maintain monthly records of monitoring of the interstice by vacuum, pressure, or liquid filled interstitial space, or

(B) use an interstitial monitoring method not listed in Subsection (d)(2)(A), and the integrity of the interstitial space is ensured at least once every three years by using vacuum, pressure, or liquid test in accordance with criteria listed in Subsection (c)(2)([~~B~~]C).

(e) To qualify as secondarily contained for purposes of risk calculation, piping containment sumps and under-dispenser containment shall:

(1) be double-walled with [~~continuous~~]monthly documentation of monitoring of the space between the walls, or

(2) be tested at least once every three years to show the piping containment sump or under-dispenser containment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following:

(A) requirements developed by the manufacturer, or

(B) a code of practice developed by a nationally recognized association or independent testing laboratory.

(f) Each facility that participates in the Environmental Assurance Program 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", which is hereby incorporated by reference. The table, dated June 2, 2014, lists risk tiers and the rebate for each tier.

(g) A facility that begins participation in the Environmental Assurance Program 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 Program.

KEY: hazardous substances, petroleum, underground storage tanks
Date of Enactment or Last Substantive Amendment: October 10, 2014
Notice of Continuation: April 10, 2012
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403; 19-6-410.5; 19-6-428

R311. Environmental Quality, Environmental Response and Remediation.
R311-212. Administration of the Petroleum Storage Tank Loan Program.
R311-212-1. Definitions.

Definitions are found in Rule R311-200.

R311-212-2. Declaration of Loan Application Periods, and Loan Application Submittal.

(a) Application for a loan shall be made on forms incorporated in Section R311-212-10, in accordance with Subsection 19-6-409(9). Loan applications shall be accepted during application periods designated by the Director.

(b) At least one application period shall be designated each calendar year if, on January 1,:

(1) the current balance due for all outstanding loans is less than twenty-five per cent of the cash balance of the Petroleum Storage Tank Trust Fund, and

(2) the cash balance of the Petroleum Storage Tank Trust Fund exceeds $10,000,000.

(c) If the requirements of Subsections R311-212-2(b)(1) and (b)(2) are not met on January 1, but are met at a later time in the calendar year, the Director may designate an application period.

(d) An open application period will close if:

(1) the current balance due for all outstanding loans exceeds twenty-five per cent of the cash balance of the Petroleum Storage Tank Trust Fund, or

(2) the cash balance of the Petroleum Storage Tank Trust Fund is less than $10,000,000.

(e) If an open application period closes as required by Subsection R311-212-2(d), loan applications currently under review when the application period closes may be renewed when a new application period opens, unless the applicant must re-apply as required by Subsection R311-212-5(a).

(f) Applications must be received by the Director by 5:00 p.m. on the last day of the application period.

(g) Loan applications received outside the application period shall be invalid.

R311-212-3. Eligibility Review.

(a) The Director shall determine if the applicant meets the eligibility criteria stated in Subsections 19-6-409(5), 19-6-409(6), 19-6-409(7), and 19-6-409(8).

(b) To meet the eligibility requirements of 19-6-409(6) the applicant must, for all facilities for which the applicant requests a loan, demonstrate current compliance with all state and federal UST laws, rules and regulations, including compliance with all requirements for remediation of facilities with leaking underground storage tanks, or

must be able to achieve compliance with the loan proceeds.

(c) To meet the eligibility requirements of 19-6-409(6) the applicant must meet the following for all facilities owned or operated by the applicant for which the applicant does not request a loan:

(1) The applicant has demonstrated current compliance with all state and federal UST laws, rules and regulations, including compliance with all requirements for remediation of facilities with leaking underground storage tanks;

(2) All regulated underground petroleum storage tanks owned by the applicant have met the requirements of Section 19-6-412(2) and have a current certificate of compliance;

(3) The applicant has paid all underground storage tank registration fees, interest and penalties which have been assessed; and

(4) The applicant has paid all applicable petroleum storage tank fees, interest and penalties which have been assessed.

(d) To meet the requirements of Section 19-6-409(5), the loan request must be for the purpose of:

(1) Upgrading petroleum USTs;

(2) replacing USTs; or

(3) Permanently closing USTs. If an applicant requests a loan for closing USTs which will be replaced by above-ground storage tanks, the loan, if approved, will be only for closing the USTs. The security pledged by the applicant for a loan to replace USTs with above-ground storage tanks shall be subject to the limitations in R311-212-6.

R311-212-4. Prioritization of Loan Applications.

(a) When determined by the Director to be necessary, all applications received during a designated application period shall be prioritized by total points assigned. Ten points shall be given for each item that applies to the applicant or the facility for which the loan is requested:

(1) The applicant has less than $1,000,000 annual gross income and fewer than five full-time employee equivalents and is not owned or operated by any person not meeting the income and employee criteria.

(2) The applicant's income is derived solely from operations at UST facilities.

(3) The applicant owns or operates no more than two facilities.

(4) The facility is located in a U.S. Census Bureau population unit containing fewer than 5,000 people.

(5) There are no more than three operating retail outlets selling motor fuel within 15 miles road distance in all directions.

(6) Loan proceeds will be used solely for replacing or upgrading USTs.

(7) All USTs at the facility are greater than 15 years old.

(b) One point shall be given for each road mile of distance from the facility to the nearest operating retail outlet selling motor fuel, to a maximum of 30 points.

(c) Applications which receive the same number of points shall be sub-prioritized according to the date postmarked or the date delivered to the Director by any other method.

(d) Applications shall remain in priority order regardless of availability of funds until a new application period is declared. When a new application period begins, priority order of applications which have not been reviewed terminates. An applicant whose application has not been reviewed or an applicant whose application has not been approved because the applicant has not satisfied the requirements of Subsections 19-6-409(5) through (8), loses eligibility to apply for a loan and must submit a new application in the subsequent period to be considered for a loan in that period.

R311-212-5. Loan Application Review.

(a) The applicant shall ensure that the loan application is complete. The completed application with supporting documents shall contain all information required by the application. If the applicant does not submit a complete application within 60 days of eligibility approval, the applicant's eligibility approval shall be forfeited, and the applicant must re-apply.

(b) All costs incurred in processing the application including appraisals, title reports, or UCC-1 releases shall be the responsibility of and paid for by the applicant. The Director may require payment of costs in advance. The Director shall not reimburse costs which have been expended, even if the loan fails to close, regardless of the reason.

(c) The review and approval of the application shall be based on information provided by the applicant, and:

(1) review of any and all records and documents on file;

(2) verification of any and all information provided by the applicant;

(3) review of credit worthiness and security pledged; and

(4) review of a site construction work plan.

(d) The applicant must close the loan within 30 days after the Director conveys the loan documents for the applicant's signature. If the applicant fails to close the loan within this time period, the approval is forfeited and the applicant must re-apply. An exception to the 30 day period may be granted by the Director if the closing is delayed due to circumstances beyond the applicant's control.

R311-212-6. Security for Loans.

(a) When an applicant applies for a loan of greater than $30,000, the applicant must pledge for security personal or real property which meets or exceeds the following criteria:

(1) The loan amount may not be greater than 80 percent of the value of the applicant's equity in the security for cases where the Department obtains a first mortgage position, or

(2) The loan amount may not be greater than 60 percent of the value of the applicant's equity in the security for cases where the Department obtains a second mortgage position.

(b) The applicant shall provide acceptable documentation of the value of the property to be used as security using:

(1) a current written appraisal, performed by a State of Utah certified appraiser;

(2) a current county tax assessment notice, or

(3) other documentation acceptable to the Director.

(c) A title report on all real property and a UCC-1 clearance on all personal property used as security shall be submitted to the Director by a title company or appropriate professional person approved by the Director.

(d) When the title report indicates an existing lien or encumbrance on real property to be used as security, the existing lien holders may subordinate their interest in favor of the Department. The Department shall accept no less than a second mortgage position on real property pledged for loan security.

(e) Whenever a corporation seeks a loan, its principals must guarantee the loan personally.

(f) The applicant must provide a complete financial statement with cash flow projections for debt service.

(g) Above ground storage tanks and real property on which they are located shall not be acceptable as security.

(h) Underground storage tanks and the real property on which they are located shall not be acceptable as security unless:

(1) The UST facility offered for security has not had a petroleum release which has not been properly remediated; and

(2) The applicant provides documentation to demonstrate the UST facility is currently in compliance with the loan eligibility requirements set forth in R311-212-3.

(i) If a loan is made without security, the maximum loan repayment period shall be seven years.

R311-212-7. Procedure for Making Loans.

(a) Loan funds shall be obligated after all documents to secure a loan are complete, processed, and appropriately signed by the applicant and the Director.

(b) The Director may approve a borrower's request for one initial disbursement of loan proceeds to the borrower after the loan is closed, and before work begins. The initial disbursement shall be for the lesser of[~~no more than~~] 40 per cent of the approved loan amount or the amount required by the borrower's contractor as an initial payment before work is done. Disbursement of the remaining loan proceeds, or disbursement of the entire loan proceeds if no initial disbursement is made, shall be made after work at the site is completed, and all paperwork and notifications have been received by the Director.

(1) If an initial loan disbursement is made, the borrower shall begin work on the project no later than 60 days, or another time period approved by the Director, following the initial disbursement. Disbursement of the remaining loan proceeds shall be made no later than 180 days, or another time period approved by the Director, following the initial disbursement.

(2) If work is not initiated or completed within the time periods established in Subsection R311-212-7(b)(1), the loan balance shall be paid within 30 days of notice provided by the Director.

(c) Loan proceeds shall not be used to pay underground storage tank registration fees, penalties, or interest assessed under Section 19-6-408 or petroleum storage tank fees, penalties, or interest assessed under Section 19-6-411.

(d) Loans shall not be made for work which is performed before the applicant's loan application is approved and the loan is closed.

R311-212-8. Servicing the Loans.

(a) The Director shall establish a repayment schedule for each loan based on the financial situation and income circumstances of the borrower and the term of loans allowed by Subsection 19-6-409(8)(b)(ii). Loans shall be amortized with equal payment amounts and payments shall be of such amount to pay all interest and principal in full.

(b) The initial installment payment shall be due on a date established by the Director. Subsequent installment payments shall be due on the first day of each month. A notice of payment and due date shall be sent for each subsequent payment. Non-receipt of the statement of account or notice of payment shall not be a defense for non-payment or late payment.

(c) The Director shall apply loan payments received first to penalty, next to interest and then to principal.

(d) Loan payments may be made in advance, and the remaining principal balance of the loan may be paid in full at any time without penalty.

(e) Notices of late payment penalty assessed with amounts of penalty and the total payment due shall be sent to the borrower.

(f) The penalty for late loan payments shall be 10 percent of the payment due. The penalty shall be assessed and payable on payments received by the Director more than five days after the due date. A penalty shall be assessed only once on a given late payment. Payments shall be considered received the day of the U.S. Postal Service post mark date or receipted date for payments delivered to the Director by methods other than the U.S. Postal Service. If a loan payment check is returned due to insufficient funds, a service charge in the amount allowed by law shall be added to the payment amount due.

(g) Notice of loans paid in full shall be sent after all penalties, interest and principal have been paid.

(h) Releases of the Director's interest in security shall be prepared and sent to the borrower or filed for public notice as applicable.

R311-212-9. Recovering on Defaulted Loans.

(a) Loans may be considered in default when two consecutive payments are past due by 30 days or more, when the applicant's ability to receive payments for claims against the fund lapses, or if the certificate of compliance lapses or is revoked. Lapsing under Subsection R311-206-7(e) shall not be considered as grounds for default for USTs which are permanently closed.

(b) The Director may declare the full amount of the defaulted loan, penalty, and interest immediately due.

(c) The Director need not give notice of default prior to declaring the full amount due and payable.

(d) The borrower shall be liable for attorney's fees and collection costs for defaulted loans whether incurred before or after court action.

R311-212-10. Forms.

(a) The forms dated and listed below, on file with the Department, are incorporated by reference as part of Rule R311-212, and shall be used by the Director for making loans.

(1) Loan Application version [~~7/29/14~~]7/14/16

(2) Balance Sheet version 7/29/14

(3) Loan Agreement version 7/29/14

(4) Corporate Authorization version 7/29/14

(5) Promissory Note version 7/29/14

(6) Extension and Modification of Promissory Note Agreement version 7/29/14

(7) Security Agreement version 7/29/14

(8) Hypothecation Agreement version 7/29/14

(9) General Pledge Agreement version 7/29/14
(10) Assignment version 7/29/14
(11) Assignment of Account version 7/29/14
(12) Trust Deed version 7/29/14
(13) Trust Deed Note version 7/29/14
(14) Extension and Modification of Trust Deed Note Agreement version 7/29/14

(b) The Director may require or allow the use of other forms that are consistent with these rules as necessary for the loan approval process. The Director may change these forms for administrative purposes provided the revised forms remain consistent with the substantive provisions of the adopted forms.

R311-212-11. Rules in Effect.

(a) The rules in effect on the closing date of the loan and the forms signed by the parties shall govern the parties.

KEY: hazardous substances, petroleum, underground storage tanks
Date of Enactment or Last Substantive Amendment: October 10, 2014
Notice of Continuation: April 10, 2012
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403; 19-6-409

NOTICE OF
PROPOSED RULE AMENDMENT

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Office of Administrative Rules.

Rule Information

DAR file no: Date filed:

State Admin Rule Filing Key: 157804

Utah Admin. Code ref. (R no.): R311-200

Agency Information

1. Agency: ENVIRONMENTAL QUALITY - Environmental Response and Remediation

Room no.: First Floor

Building:

Street address 1: 195 N 1950 W

Street address 2:

City, state, zip: SALT LAKE CITY UT 84116-3085

Mailing address 1: PO BOX 144840

Mailing address 2:

City, state, zip: SALT LAKE CITY UT 84114-4840

Contact person(s):

Name:	Phone:	Fax:	E-mail:	Remove:
Gary Astin	801-536-4103	801-359-8853	gastin@utah.gov	

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Title

2. Title of rule or section (catchline):
Underground Storage Tanks: Definitions.

Notice Type

3. Type of notice: Amendment

Rule Purpose

4. Purpose of the rule or reason for the change:

   Several definitions in the rule are no longer necessary, due to changes in the federal underground storage tank (UST) regulations or the Utah UST rules, or are redundant, because they are now part of the federal UST regulations. The definition of UST testing is modified because new types of testing will be required by the federal UST regulations, and these tests may be performed by certified UST testers.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.

   ◉ No ○ Yes

Rule Summary

6. Summary of the rule or change:

   Remove several definitions that are no longer needed. Modify the definition of UST Testing to include new types of testing that are now part of the federal UST regulations or the Utah UST rules.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: ◉ No ○ Yes

No anticipated cost or savings to state budget. The rule change only removes or modifies definitions found in the rule.

B) Local government:

Affected: ◉ No ○ Yes

No anticipated cost or savings to local governments. The rule change only removes or modifies definitions found in the rule.

C) Small businesses:

Affected: ◉ No ○ Yes

("small business" means a business employing fewer than 50 persons)

No anticipated cost or savings to small businesses. The rule change only removes or modifies definitions found in the rule.

D) Persons other than small businesses, businesses, or local government entities:

Affected: ◉ No ○ Yes

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

No anticipated cost or savings to other persons. The rule change only removes or modifies definitions found in the rule. Defining the tank and piping interstitial tests under R311-206-11(c)(2)(C) and R311-206-11(d)(d)(2)(B) may increase costs somewhat, because now they will have to be done by a certified UST tester. The testers are the only ones who have the equipment to perform the tests successfully, so tests will continue to be done by certified testers, as they have in the past. Non-fiscal impacts- Including new types of testing in the definition of UST Testing, therefore requiring that the tests be done by certified UST testers, will help ensure that tests are done by capable, trained individuals.

Compliance Cost Information

8. Compliance costs for affected persons:

No compliance costs. If certified testers choose to perform some of the new types of testing, it may be necessary to purchase new test equipment and receive manufacturer training on that equipment. Defining the tank and piping interstitial tests under R311-206-11(c)(2)(C) and R311-206-11(d)(d)(2)(B) as UST testing may increase costs somewhat, because now these tests must be done by a certified UST tester. In practice, the UST testers are the only ones who have the equipment to perform the tests successfully, so the tests will continue to be done by certified testers, as they have in the past.

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:
   No fiscal impacts on businesses are expected. Any impact would be found in the other rules to which the definitions apply.
   B) Name and title of department head commenting on the fiscal impacts:
   Alan Matheson, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.
    State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :
    19-6-105, 19-6-403

Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by reference (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued (mm/dd/yyyy)	
Issue, or version (including partial dates)	
ISBN Number	
ISSN Number	
Cost of Incorporated Reference	
Adds, updates, removes	-- SELECT ONE --

Comments

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) : 10/31/2016

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
10/17/2016	02:00 PM	Department of Environmental Quality, 195 North 1950 West, Room 1015, Salt Lake City, Utah

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 01/01/2017

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Indexing Information

14. Indexing information - keywords (maximum of four, one term per field, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):

petroleum, underground storage tanks

File Information

15. Attach an RTF document containing the text of this rule change (filename):

No document is associated with this filing.

To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

Agency Authorization

Agency head or designee, and title:	Brent Everett Director	Date (mm/dd/yyyy): 08/15/2016

NOTICE OF
PROPOSED RULE AMENDMENT

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Office of Administrative Rules.

Rule Information

DAR file no: Date filed:

State Admin Rule Filing Key: 157805

Utah Admin. Code ref. (R no.): R311-201

Agency Information

1. Agency: ENVIRONMENTAL QUALITY - Environmental Response and Remediation

Room no.: First Floor

Building:

Street address 1: 195 N 1950 W

Street address 2:

City, state, zip: SALT LAKE CITY UT 84116-3085

Mailing address 1: PO BOX 144840

Mailing address 2:

City, state, zip: SALT LAKE CITY UT 84114-4840

Contact person(s):

Name:	Phone:	Fax:	E-mail:	Remove:
Gary Astin	801-536-4103	801-359-8853	gastin@utah.gov	

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Title

2. Title of rule or section (catchline):
Underground Storage Tanks: Certification Programs and UST Operator Training.

Notice Type

3. Type of notice: Amendment

Rule Purpose

4. Purpose of the rule or reason for the change:

   New types of underground storage tank (UST) testing have been added by the federal UST regulations. The rule change allows some of these types of testing to be done by certified UST installers or UST owner/operators, because they do not require specialized equipment, or they relate more closely to the work currently done by UST installers, rather than by UST testers. The types of testing that require specialized equipment are added to the statement that certification only applies to the equipment for which the certified tester has been trained by the equipment manufacturer, to ensure that certified testers are properly trained to use the equipment. Wording changes are made to remove compliance dates that are in the past, provide greater clarity, and remove duplication. They do not change the essence of the rule. A reference to the Waste Management and Radiation Control Board hearing certification-related appeals is removed because the Board, by statute, no longer hears such appeals. Sections dealing with UST operator inspections and requirements for un-attended UST facilities are moved from the rule on operator training (R311-201-12) to R311-203 because they do not relate expressly to UST operator training, and fit better elsewhere. The incorporation by reference of the Utah UST operator inspection form is removed, because the reference to the operator inspection form is moved to R311-203-7 and use of the new form will not be mandatory. AB operator re-training requirements are changed to clarify the sequence of events if the operator that is required to re-train due to non-compliance does not successfully re-train and notify the Director of the re-training within 120 days of the determination of non-compliance. The reference to revoking the certificate of compliance is removed because it is unnecessary; the certificate can be revoked for any significant non-compliance under Section 19-6-414 of the Utah UST Act.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.

   ◉ No ○ Yes

Rule Summary

6. Summary of the rule or change:

   Specify the new types of UST testing that can be performed by certified UST installers and UST owner/operators. Add new types of UST testing to the statement that certification only applies to the specific equipment on which the UST tester has been trained by the equipment manufacturer. Remove dates that specified when UST-related activities first had to be performed by a certified individual. Re-word UST Tester training requirements and standards of performance for certified individuals. Remove a reference to the Board hearing certification-related appeals. Move sections on UST operator inspections and requirements for un-attended facilities to another part of the Utah UST rules. Remove the incorporation by reference for the Utah UST operator inspection form. Change operator re-training requirements to state that if a Class A or Class B operator must be re-trained due to non-compliance, the operator’s registration will lapse in 120 days after the determination of non-compliance, instead of in 6 months after the determination of non-compliance. Remove reference to revoking the certificate of compliance due to failure of an A or B operator to re-train.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: ○ No ◉ Yes

As an UST owner/operator, the State of Utah could save approximately $14,000, based on the number of USTs the state currently owns or operates, if it chooses to perform the allowed tests using State employees, rather than paying an installer to tester to perform them.

B) Local government:

Affected: ○ No ◉ Yes

As UST owner/operators, local governments could save approximately $11,000, based on the number of USTs currently owned or operated by local governments, if they choose to perform the allowed tests using their own employees, rather than paying an installer or tester to perform them.

C) Small businesses:

Affected: ○ No ◉ Yes

("small business" means a business employing fewer than 50 persons)

Small businesses that own or operate USTs could save approximately $125,000, based on the number of USTs currently owned or operated by small businesses, if they choose to perform the allowed tests using their own employees, rather than paying an installer or tester to perform them.

D) Persons other than small businesses, businesses, or local government entities:

Affected: ○ No ◉ Yes

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

Persons other than small businesses, businesses, or local governments who own or operate USTs could save approximately $400, based on the number of USTs currently owned or operated by these persons, if they choose to perform the allowed tests themselves, rather than paying an installer or tester to perform them. Non-fiscal impacts- If UST owner/operators perform the new tests themselves, they can better understand their UST systems and be more involved, helping to reduce the number and severity of UST releases. Requiring that testers who perform new types of testing that require specialized equipment to be certified by the equipment manufacturer helps to ensure that testers are more capable and tests are performed accurately. Other changes clarify the rules and make them easier to understand.

Compliance Cost Information

8. Compliance costs for affected persons:

None. The proposed change allows some of the new required testing to be done by certified UST installers or UST owner/operators, rather than by UST testers. UST owner/operators have the option to perform some tests themselves. Certified installers and testers have the option to purchase equipment and qualify to perform new types of testing. The other proposed changes are for simplicity and clarification, and have no compliance costs.

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

   There would not be a direct fiscal cost imposed by this rule, because the requirement to perform new testing on underground storage tanks is in another part of the rule. Underground storage tank owners and operators could, under this rule, reduce the expenses related to the new testing requirements by doing some of the tests themselves rather than paying others to perform the tests.

   B) Name and title of department head commenting on the fiscal impacts:

   Alan Matheson, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.
    State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

    19-1-301, 19-6-105, 19-6-402, 19-6-403

    63G-4-102

    63G-4-201 through 205

    63G-4-503

Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by reference (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page)UST Operator Inspection - Utah
PublisherDERR
Date Issued (mm/dd/yyyy)06/03/2014
Issue, or version (including partial dates)
ISBN Number
ISSN Number
Cost of Incorporated Reference
Adds, updates, removesRemoves

Comments

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) : 10/31/2016

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
10/17/2016	02:00 PM	Department of Environmental Quality, 195 North 1950 West, Room 1015, Salt Lake City, Utah

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 01/01/2017

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Indexing Information

14. Indexing information - keywords (maximum of four, one term per field, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):

hazardous substances, revocation procedures, administrative proceedings, underground storage tanks

File Information

15. Attach an RTF document containing the text of this rule change (filename):

No document is associated with this filing.

To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

Agency Authorization

Agency head or designee, and title:	Brent Everett Director	Date (mm/dd/yyyy): 08/15/2016

NOTICE OF
PROPOSED RULE AMENDMENT

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Rule Information

DAR file no: Date filed:

State Admin Rule Filing Key: 157807

Utah Admin. Code ref. (R no.): R311-202

Agency Information

1. Agency: ENVIRONMENTAL QUALITY - Environmental Response and Remediation

Room no.: First Floor

Building:

Street address 1: 195 N 1950 W

Street address 2:

City, state, zip: SALT LAKE CITY UT 84116-3085

Mailing address 1: PO BOX 144840

Mailing address 2:

City, state, zip: SALT LAKE CITY UT 84114-4840

Contact person(s):

Name:	Phone:	Fax:	E-mail:	Remove:
Gary Astin	801-536-4103	801-359-8853	gastin@utah.gov	

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Title

2. Title of rule or section (catchline):
Underground Storage Tank Technical Standards

Notice Type

3. Type of notice: Amendment

Rule Purpose

4. Purpose of the rule or reason for the change:

   Utah is required to have an underground storage tank (UST) program no less stringent than the federal UST regulations. The new federal UST regulations are therefore adopted by reference, with some exceptions, to ensure that Utah continues to have an approved UST program. Because some compliance dates in the new federal regulations have now passed, those dates are changed to the date the Utah rule will become effective, to ensure continuity of program requirements and ensure valid enforcement of the regulations and state rules. The operator training section of the new federal regulations, Subpart J and associated definitions are not incorporated by reference because Utah already has an approved operator training program in place, in accordance with the Energy Policy Act of 2005, and, due to differences in Utah's present program and the operator training requirements in the new federal UST regulations, Utah prefers to keep its present program.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.

   ◉ No ○ Yes

Rule Summary

6. Summary of the rule or change:

   Incorporates by reference most of 40 CFR part 280 in effect as of October 13, 2015, with certain exceptions and changes to dates.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No Yes

As an owner/operator of USTs, the State of Utah will be required, by October 13, 2018, to test spill prevention devices and piping containment sumps used for interstitial monitoring, and inspect overfill prevention devices and electronic and mechanical leak detection components. The cost for the initial tests is estimated to be $46,000, based on the number of USTs currently owned or operated by the State of Utah. Subsequent testing of spill prevention, overfill prevention, and containment sumps will occur every three years. Testing of leak detection components will occur yearly.

B) Local government:

Affected: No Yes

Local governments that own or operate USTs will be required, by October 13, 2018, to test spill prevention devices and piping containment sumps used for interstitial monitoring, and inspect overfill prevention devices and electronic and mechanical leak detection components. The cost for the initial tests is estimated to be $27,000, based on the number of USTs currently owned or operated by local governments. Subsequent testing of spill prevention, overfill prevention, and containment sumps will occur every three years. Testing of leak detection components will occur yearly.

C) Small businesses:

Affected: No Yes

("small business" means a business employing fewer than 50 persons)

Small businesses that own or operate USTs will be required, by October 13, 2018, to test spill prevention devices and piping containment sumps used for interstitial monitoring, and inspect overfill prevention devices and electronic and mechanical leak detection components. The cost for the initial tests is estimated to be $280,000, based on the number of USTs currently owned or operated by small businesses. Subsequent testing of spill prevention, overfill prevention, and containment sumps will occur every three years. Testing of leak detection components will occur yearly.

D) Persons other than small businesses, businesses, or local government entities:

Affected: No Yes

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

Persons other than small businesses, businesses, or local governments, who own or operate USTs, will be required, by October 13, 2018, to test spill prevention devices and piping containment sumps used for interstitial monitoring, and inspect overfill prevention devices and electronic and mechanical leak detection components. The cost for the initial tests is estimated to be $1,300, based on the number of USTs currently owned or operated by these persons. Subsequent testing of spill prevention, overfill prevention, and containment sumps will occur every three years. Testing of leak detection components will occur yearly. Non-fiscal impacts- UST owner/operators will be more involved and knowledgeable about their UST systems, resulting in better operation and maintenance of their USTs. New testing and better UST maintenance will find leaks sooner and prevent leaks. When leaks do occur, they will be easier to clean up, resulting in better protection of the

Compliance Cost Information

8. Compliance costs for affected persons:

   Costs for a typical facility that uses interstitial monitoring for piping, which requires testing of the piping containment sumps and under dispenser containment are estimated to be $1,100 every three years, and $150 yearly. Costs for a typical facility that does not use interstitial monitoring for piping are estimated to be $400 every three years, and $150 yearly. Costs to add leak detection to emergency generator tanks are estimated to be $5,000 to $10,000, if little or no of the required monitoring equipment is currently in place. Most emergency generator facilities already have all or most of the equipment that will be needed.

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

   New tests of UST systems will cost approximately $800 to $1500 for a typical UST facility over a three-year period; most tests will be required every three years; some will be required every year. These tests will help provide savings in the long term by reducing the number and severity of UST releases that occur. Most other federal requirements being adopted replace requirements already in place in Utah from the 2005 Energy Policy Act. Although the state rules are being changed, the programs already in place from the Energy Act will, in practice, continue essentially as they have been operating, with little change, fiscal or otherwise.

   B) Name and title of department head commenting on the fiscal impacts:

   Alan Matheson, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

    State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

    19-6-403, 19-6-105

Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by reference (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page)	40 CFR Part 280
Publisher	US Environmental Protection Agency
Date Issued (mm/dd/yyyy)	10/13/2015
Issue, or version (including partial dates)	
ISBN Number	
ISSN Number	
Cost of Incorporated Reference	
Adds, updates, removes	Updates

Comments

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) : 10/31/2016

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
10/17/2016	02:00 PM	Department of Environmental Quality, 195 North 1950 West, Room 1015, Salt Lake City, Utah

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 01/01/2017

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Indexing Information

14. Indexing information - keywords (maximum of four, one term per field, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):

hazardous substances, petroleum, underground storage tanks

File Information

15. Attach an RTF document containing the text of this rule change (filename):

No document is associated with this filing.

To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

Agency Authorization

Agency head or designee, and title:	Brent Everett Director	Date (mm/dd/yyyy): 08/15/2016

NOTICE OF
PROPOSED RULE AMENDMENT

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Rule Information

DAR file no: Date filed:

State Admin Rule Filing Key: 157808

Utah Admin. Code ref. (R no.): R311-203

Agency Information

1. Agency: ENVIRONMENTAL QUALITY - Environmental Response and Remediation

Room no.: First Floor

Building:

Street address 1: 195 N 1950 W

Street address 2:

City, state, zip: SALT LAKE CITY UT 84116-3085

Mailing address 1: PO BOX 144840

Mailing address 2:

City, state, zip: SALT LAKE CITY UT 84114-4840

Contact person(s):

Name:	Phone:	Fax:	E-mail:	Remove:
Gary Astin	801-536-4103	801-359-8853	gastin@utah.gov	

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Title

2. Title of rule or section (catchline):
Underground Storage Tanks: Technical Standards

Notice Type

3. Type of notice: Amendment

Rule Purpose

4. Purpose of the rule or reason for the change:

   The requirement for an underground storage tank (UST) owner to notify the Director of the Division of Environmental Response and Remediation (DERR) when storing an alternative fuel in an UST is removed because the new federal UST regulations contain a comparable section on compatibility and notification for alternative fuels. The current Utah wording is therefore no longer necessary. Wording requiring pre-notification by installers before installing a cathodic protection system relates to original requirements from the federal UST regulations that dealt with the 1998 UST upgrade requirement for older USTs. Removal of the wording allows for notification in all instances when a cathodic protection system is installed. Wording to specify the fees that are due for previously un-registered USTs that are promptly removed clarifies the procedure and the fee that will be assessed. It also acts as an incentive for prompt removal of the USTs, by allowing the DERR Director to decline to pursue other past due fees if the tanks are removed promptly. Some UST testing requirements are removed because they are now included in the federal UST regulations. Requirements for reporting the results of spill containment equipment and containment sump testing will provide consistency in reporting and also allow those who conduct the tests some latitude. Because testing will be done by certified UST testers, certified UST installers, and UST owner/operators, consistency in reporting results will aid the DERR Director in understanding the test results. The secondary containment rule is modified to specify that the rule applies to UST installations that occur between October 1, 2008 and January 1, 2017, to provide continuity and the ability to enforce the rule for installations that took place during that time period. To provide for enforcement of secondary containment requirements on or after January 1, 2017, a statement is added to specify that UST installations that occur after January 1, 2017 must meet the requirements of 40 CFR 280.20. The requirements for UST operator inspections and un-attended UST facilities are included in R311-203 because they are more appropriate here than in the UST operator training rule (R311-201-12). The operator inspection requirements are modified to incorporate the new federal UST operator inspection requirements in 40 CFR 280.36. Because there are now more options for performing the inspections, and to allow some latitude to UST owner/operators in recording and reporting their inspections, a new Utah UST operator inspection form will be available for use, but will not be required.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.

   ◉ No ○ Yes

Rule Summary

6. Summary of the rule or change:

   Remove the requirement for notification by the UST owner/operator when an alternative fuel is stored in an UST. Remove wording that specifies situations in which a certified installer must notify the Director before performing a cathodic protection system installation. Add a statement to clarify the fees that are to be paid for previously un-registered USTs that are removed promptly after discovery. Remove certain UST testing requirements. Specify the reporting requirements for testing of spill containment equipment and containment sumps. Modify parts of the secondary containment rule (R311-203-6). Add requirements for UST operator inspections and un-attended facilities (moved from R311-201-12 and modified). Provide for a revised UST operator inspection form.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: ○ No ◉ Yes

For previously-unknown USTs that are found and promptly removed, the state budget could lose up to $440 in UST registration fees per tank. The total amount lost depends on the number of such tanks that are found. The benefits to the environment outweigh the cost of the lost fees.

B) Local government:

Affected: ○ No ◉ Yes

As an UST owner/operator, a local government could save the cost of two years of UST registration fees ($440 per UST) if it finds a previously unknown and un-registered UST, and removes it promptly. The total savings depend on the number of such USTs that are found and removed. The local government could also save a portion of the costs for its monthly operator inspections if it contracts with a third party to perform the inspections. The total amount saved would depend on the degree to which the third-party inspector could reduce charges due to the reduced amount of work necessary to perform the inspection.

C) Small businesses:

Affected: ○ No ◉ Yes

("small business" means a business employing fewer than 50 persons)

As an UST owner/operator, a small business could save the cost of two years of UST registration fees ($440 per UST) if it finds a previously unknown and un-registered UST, and removes it promptly. The total savings depend on the number of such USTs that are found and removed. The small business could also save a portion of the costs for its monthly operator inspections if it contracts with a third party to perform the inspections. The total amount saved would depend on the degree to which the third-party inspector could reduce charges due to the reduced amount of work necessary to perform the inspection.

D) Persons other than small businesses, businesses, or local government entities:

Affected: ○ No ◉ Yes

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

In cases where previously un-registered USTs are found and removed promptly, the UST owner/operator will save the cost of two years of UST registration fees ($220 per tank per year). The Director could otherwise pursue collection of 3 years of fees. The total savings will depend on the number of such tanks that are found and promptly removed. UST owner/operators who contract with third parties to perform the monthly UST operator inspections could save part of the present cost of the inspection, because the proposed change will require a reduced monthly inspection. The total saved would depend on the present charge by third-party inspectors and the degree to which the inspections will be reduced. Non-fiscal impacts- The incentive to remove previously un-registered USTs helps protect human health and the environment by removal of old out-of-use USTs and finding releases that may otherwise not be found if the tanks are not removed.

Compliance Cost Information

8. Compliance costs for affected persons:

   No compliance costs are anticipated. The proposed changes could result in some savings to UST owner/operators who use insurance for their UST financial responsibility and who contract with third parties for their monthly UST operator inspections. Other changes remove wording from the state rule that is now part of the federal UST regulations, and do not make substantive changes to the UST requirements.

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

   There should be little or no impact. Some items are removed or modified because the federal regulations now address them, or are modified to address situations that the federal regulations may not specifically address. Other changes provide options for tank owners to report testing and monthly inspections.

   B) Name and title of department head commenting on the fiscal impacts:

   Alan Matheson, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.
    State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

    19-6-408, 19-6-105, 19-6-403

Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by reference (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued (mm/dd/yyyy)	
Issue, or version (including partial dates)	
ISBN Number	
ISSN Number	
Cost of Incorporated Reference	
Adds, updates, removes	-- SELECT ONE --

Comments

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

    A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) :

    B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
10/17/2016	02:00 PM	Department of Environmental Quality, 195 North 1950 West, Room 1015, Salt Lake City, Utah

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 01/01/2017

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Indexing Information

14. Indexing information - keywords (maximum of four, one term per field, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):

    fees, petroleum, hazardous substances, underground storage tanks

File Information

15. Attach an RTF document containing the text of this rule change (filename):

    No document is associated with this filing.

To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

Agency Authorization

Agency head or designee, and title:	Brent Everett Director	Date (mm/dd/yyyy): 08/15/2016

NOTICE OF
PROPOSED RULE AMENDMENT

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- The full text of all rule filings may also be inspected at the Office of Administrative Rules.

Rule Information

DAR file no: Date filed:

State Admin Rule Filing Key: 157809

Utah Admin. Code ref. (R no.): R311-206

Agency Information

1. Agency: ENVIRONMENTAL QUALITY - Environmental Response and Remediation

Room no.: First Floor

Building:

Street address 1: 195 N 1950 W

Street address 2:

City, state, zip: SALT LAKE CITY UT 84116-3085

Mailing address 1: PO BOX 144840

Mailing address 2:

City, state, zip: SALT LAKE CITY UT 84114-4840

Contact person(s):

Name:	Phone:	Fax:	E-mail:	Remove:
Gary Astin	801-536-4103	801-359-8853	gastin@utah.gov	

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Title

2. Title of rule or section (catchline):
Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms.

Notice Type

3. Type of notice: Amendment

Rule Purpose

4. Purpose of the rule or reason for the change:

   Requiring submittal of the manufacturer's installation checklist for newly-installed tanks will help ensure that the work was done properly and that tank deflection readings were taken. Submittal of the checklist also provides documentation for the tank warranty. References to yearly submittal of financial responsibility documents are removed because in recent years some underground storage tank (UST) owner/operators using alternate financial assurance have obtained insurance policies with a term of more than one year. If no review of the policy is needed during a given fiscal year, the owner should not have to pay the review fee for that year. In R311-206-4(e) the reference to fiscal year 1998 is removed to allow the subsection to refer to auditing of facility throughput records for other years, and to keep the criteria for audits of UST owner self-worth for self-insurance under R311-206-4(f). In R311-206-11 references to "continuous" monitoring are removed to avoid mis-interpretation of the term "continuous" and to provide an accurate description of the level of monitoring required to qualify for the rebate. Other changes are made to clarify and update the rule, and do not make substantive changes to the meaning of the rule.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.

   ◉ No ○ Yes

Rule Summary

6. Summary of the rule or change:

   Add a requirement that the UST owner/operator must submit the tank manufacturer's installation checklist in order to receive a certificate of compliance for newly-installed tanks. Remove the requirement for submittal of financial responsibility documents each year. Make minor grammatical and technical changes- correct citations due to changes elsewhere in the rules and changes to the federal UST regulations. Update fire code adoption reference. Remove reference to fiscal year 1998 in the section that specifies the requirements for audits of UST facility throughput records. Re-word Environmental Assurance Fee rebate requirements, replacing references to "continuous" monitoring with more appropriate wording.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No Yes

The state budget may lose approximately $1000 per year in alternate financial assurance mechanism processing fees. The amount could change if more or fewer UST owner/operators obtain UST insurance policies with terms longer than one year.

B) Local government:

Affected: No Yes

If a local government is an UST owner/operator, it may save $240 per year if it has an UST insurance policy with a term greater than one year. The total amount saved would depend on the number of local government UST owner/operators that obtain such policies. There is no cost for submittal of the UST manufacturer's installation checklist. In current practice, the UST installer completes the checklist and generally submits it to the DERR. Other changes do not have cost or savings associated with them, but clarify or improve wording of the rule.

C) Small businesses:

Affected: No Yes

("small business" means a business employing fewer than 50 persons)

If a small business is an UST owner/operator, it may save $240 per year if it has an UST insurance policy with a term greater than one year. The total amount saved would depend on the number of small businesses UST owner/operators that obtain such policies. There is no cost for submittal of the UST manufacturer's installation checklist. In current practice, the UST installer completes the checklist and generally submits it to the DERR. Other changes do not have cost or savings associated with them, but clarify or improve wording of the rule.

D) Persons other than small businesses, businesses, or local government entities:

Affected: No Yes

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

An UST owner/operator may save $240 per year if it has an UST insurance policy with a term greater than one year. The total amount saved would depend on the number of UST owner/operators that obtain such policies. There is no cost for submittal of the UST manufacturer's installation checklist. In current practice, the UST installer completes the checklist and generally submits it to the DERR. Other changes do not have cost or savings associated with them, but clarify or improve wording of the rule. Non-fiscal impacts- The proposed change to require submittal of the UST manufacturer's installation checklist will help ensure that underground storage tanks and product piping are installed properly according to the specifications of the tank and piping manufacturers.

Compliance Cost Information

8. Compliance costs for affected persons:

No compliance costs are anticipated. The proposed changes can provide minor savings to UST owner/operators with UST insurance policies.

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

   Most of the changes would not have a fiscal impact on businesses. They formalize current practice and clean up the rule where out-of-date references exist or the clarity of the rule can be improved. If a tank owner has an insurance policy for USTs and that policy runs longer than one year, the owner would not have to pay the $240 financial assurance processing fee in the years the policy is not renewed.

   B) Name and title of department head commenting on the fiscal impacts:

   Alan Matheson, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.
    State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

    19-6-410.5, 19-6-105, 19-6-403, 19-6-428

Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by reference (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued (mm/dd/yyyy)	
Issue, or version (including partial dates)	
ISBN Number	
ISSN Number	
Cost of Incorporated Reference	
Adds, updates, removes	-- SELECT ONE --

Comments

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) : 10/31/2016

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
10/17/2016	02:00 PM	Department of Environmental Quality, 195 North 1950 West, Room 1015, Salt Lake City, Utah

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 01/01/2017

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Indexing Information

14. Indexing information - keywords (maximum of four, one term per field, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):

hazardous substances, underground storage tanks, petroleum

File Information

15. Attach an RTF document containing the text of this rule change (filename):

No document is associated with this filing.

To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

Agency Authorization

Agency head or designee, and title:	Brent Everett Director	Date (mm/dd/yyyy): 08/15/2016

NOTICE OF
PROPOSED RULE AMENDMENT

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Office of Administrative Rules.

Rule Information

DAR file no: Date filed:

State Admin Rule Filing Key: 157707

Utah Admin. Code ref. (R no.): R311-212

Agency Information

1. Agency: ENVIRONMENTAL QUALITY - Environmental Response and Remediation

Room no.: First Floor

Building:

Street address 1: 195 N 1950 W

Street address 2:

City, state, zip: SALT LAKE CITY UT 84116-3085

Mailing address 1: PO BOX 144840

Mailing address 2:

City, state, zip: SALT LAKE CITY UT 84114-4840

Contact person(s):

Name:	Phone:	Fax:	E-mail:	Remove:
Gary Astin	801-536-4103	801-359-8853	gastin@utah.gov	

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Title

2. Title of rule or section (catchline):
Administration of the Petroleum Storage Tank Loan Program.

Notice Type

3. Type of notice: Amendment

Rule Purpose

4. Purpose of the rule or reason for the change:

   When an underground storage tank (UST) owner/operator applies for a loan from the Petroleum Storage Tank loan program for closing, replacing, or upgrading USTs, the Division Director may make an initial disbursement of up to 40 per cent of the approved loan amount to the applicant, after the loan is approved and before the work is done. To avoid making an initial disbursement that is more than the amount the applicant's contractor requires as an initial payment from the applicant, the rule is changed to state that the initial disbursement may be for the lesser of 40 per cent of the approved loan amount or the amount that the contractor requires up-front from the customer (the loan applicant). The loan application form is also changed to reflect the clarification of the amount of the initial disbursement.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.

   ◉ No ○ Yes

Rule Summary

6. Summary of the rule or change:

   R311-212-7 is changed to specify that an initial disbursement of loan proceeds to an applicant for a PST loan, paid to the applicant after the loan is approved and prior to the start of work, may be for the lesser of 40 per cent of the approved loan amount or the amount the contractor who will perform the work requires as an initial payment from the customer (the loan applicant). Similar wording is added to the loan application form, and the new for is incorporated by reference.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

   A) State budget:

   Affected: ◉ No ○ Yes

   None. The amount saved due to the lower initial disbursement is paid after the work is completed as the final disbursement of the loan proceeds.

   B) Local government:

   Affected: ◉ No ○ Yes

   None. If a local government, as a UST owner/operator, applies for a PST loan, the proposed change clarifies the amount of the loan that can be paid to the applicant before the work is done. The change does not alter the total loan amount or alter the costs to the applicant.

   C) Small businesses:

   Affected: ◉ No ○ Yes

   ("small business" means a business employing fewer than 50 persons)

   None. If a small business, as a UST owner/operator, applies for a PST loan, the proposed change clarifies the amount of the loan that can be paid to the applicant before the work is done. The change does not alter the total loan amount or alter the costs to the applicant.

   D) Persons other than small businesses, businesses, or local government entities:

   Affected: ◉ No ○ Yes

   ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

   None. If a person, as a UST owner/operator, applies for a PST loan, the proposed change clarifies the amount of the loan that can be paid to the applicant before the work is done. The change does not alter the total loan amount or alter the costs to the applicant. Non-fiscal impacts- The ability to receive part of the loan proceeds before starting the work helps the applicant meet contractor requirements and may encourage UST owner/operators to remove or upgrade older USTs, reducing the number and severity of releases from UST systems.

Compliance Cost Information

8. Compliance costs for affected persons:

   None. The proposed change clarifies the amount of the loan that can be paid to the applicant up front. It does not alter the total loan amount or alter the costs to the applicant.

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

   The rule change does not have any fiscal impact on businesses.

   B) Name and title of department head commenting on the fiscal impacts:

   Alan Matheson, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.
State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :
19-6-105, 19-6-403, 19-6-409

Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by reference (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page)	Loan Application
Publisher	DERR
Date Issued (mm/dd/yyyy)	07/14/2016
Issue, or version (including partial dates)	
ISBN Number	
ISSN Number	
Cost of Incorporated Reference	
Adds, updates, removes	Updates

Comments

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) : 10/31/2016

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
10/17/2016	02:00 PM	Department of Environmental Quality, 195 North 1950 West, Room 1015, Salt Lake City, Utah

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 01/01/2017

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Indexing Information

14. Indexing information - keywords (maximum of four, one term per field, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):

hazardous substances, underground storage tanks, petroleum

File Information

15. Attach an RTF document containing the text of this rule change (filename):

No document is associated with this filing.

To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

Agency Authorization

Agency head or designee, and title:	Brent Everett Director	Date (mm/dd/yyyy): 08/10/2016

Utah Department of Environmental Quality
Division of Environmental Response and Remediation

Petroleum Storage Tank Loan Program
Loan Application

Applicant

Name		Date of Birth		SSN	Phone
Address	City	St.	Zip	Rent Own Yrs?	marital status
Previous Address	City	St.	Zip	Rent Own Yrs?	no. dependents
Name and address of Employer (if not the facility)				Yrs. worked at present job	

Co-applicant

Name		Date of Birth		SSN	Phone
Address	City	St.	Zip	Rent Own Yrs?	marital status
Previous Address	City	St.	Zip	Rent Own Yrs?	no. dependents
Name and address of Employer (if not the facility)				Yrs. worked at present job	

Business

Name				Phone
Address	City	St.	Zip	Fed. Tax Id/SSN

Facility and Tank Information

Name				ID#
Address	City	St.	Zip	
Facility Mortgage with				

Type of Ownership

Sole ☐ Co-owner ☐

Partnership ☐ Corporation ☐

Incorporated in (state): _____

Tank Information

Tank #				
Age				
Capacity				
Substance Stored				

Use of Loan Proceeds

Spill Prevention ☐ Overfill Prevention ☐ Tank Lining ☐

Cathodic Protection: Sacrificial Anode ☐ Impressed Current ☐

Leak Detection System ☐ Type of System _____

Replace Tanks ☐ Permanently Close Tanks ☐

Certified Contractors to be used:

Installer	Cert. #	Phone
Remover	Cert. #	Phone
Sampler	Cert. #	Phone
Tester	Cert. #	Phone

Other UST facilities you own:

Name				Facility ID#	
Address	City	St.	Zip	No. of: USTs	ASTs
Name				Facility ID#	
Address	City	St.	Zip	No. of: USTs	ASTs

Circle Yes or No for each of the following:

Yes	No	Are all UST registration fees paid for all facilities you own?
Yes	No	Are all Petroleum Storage Tank fund fees paid for all facilities you own?
Yes	No	Do all facilities you own have a current Certificate of Compliance?
Yes	No	Are all your facilities currently in compliance with all UST rules and regulations?
Yes	No	I have less than $1,000,000 annual gross income and fewer than 5 full-time employee equivalents. The facility is not owned or operated by anyone not meeting these criteria.
Yes	No	My income is derived solely from operations at UST facilities.
Yes	No	I own or operate no more than two facilities.
Yes	No	The facility is located in a US Census Bureau population unit containing fewer than 5,000 people.
Yes	No	There are no more than three operating retail motor fuel outlets within 15 road miles in all directions.
Yes	No	Loan proceeds will be used solely for replacing or upgrading USTs.
Yes	No	All USTs at the facility are greater than 15 years old.
	miles	Number of miles to the nearest operating retail outlet selling motor fuel.

Please answer the following:	Applicant	Co-applicant	
Are there any outstanding judgments against you?	Yes No	Yes No	If yes, explain on attached sheet.
Have you declared bankruptcy within the past 7 years?	Yes No	Yes No	If yes, when? _____
Have you had property foreclosed upon or given title or deed in lieu thereof in the last 7 years?	Yes No	Yes No	If yes, explain on attached sheet.
Are you and/or your facility party to a lawsuit?	Yes No	Yes No	If yes, explain on attached sheet.
Are you obligated to pay alimony, child support, or separate maintenance?	Yes No	Yes No	If yes, explain on attached sheet.
Are you a co-maker or endorser on a note?	Yes No	Yes No	If yes, explain on attached sheet.
Are you a US citizen?	Yes No	Yes No	
If no, are you a resident alien?	Yes No	Yes No	
If no, are you a non-resident alien?	Yes No	Yes No	

Loan Information:

Loan amount: _____ (Loan Amount may be no more than $150,000 per facility, $50,000 per tank, or 80% of the total cost of the project)

Loan repayment term desired: _____ Monthly payment desired: _____

Proposed security for loans greater than $30,000: _____

The Director may approve an initial loan disbursement[~~ of up to 40% of the approved loan amount~~], to be made after loan closing and before the work is done. The disbursement may be for the lesser of 40% of the approved loan amount or the amount the contractor requires as an initial payment before work is done. Enter the amount of the initial disbursement requested: _____

Brief Description of plans for the facility

_____

_____

Please include with your application:

- **Detailed construction work plan and budget. This can be in bid form by a contractor.**
- **Balance sheet (may use form or a separate document)**
- **Personal and corporation (if applicable) federal and state tax returns for the last two years.**

I am willing to:

1) Comply with all applicable laws and work with designated technical personnel as assigned by the Director in preparation of proposed Petroleum Storage Tank Loan Application and other documents as needed.
2) Allow continued monitoring and evaluation of work plan to ensure proper usage of loan funds.
3) Submit a detailed financial statement for review of my credit worthiness and repayment ability.

I/we certify under penalty of law that the information I/we have provided in this application is true and correct, to the best of my/our knowledge. I/we understand that you will retain this application whether or not it is approved. You are authorized to check my/our credit and facility history and to answer questions about your credit experience with me/us. I/we have read and understand the application form and agree to provide additional information which may be legally required to determine creditworthiness. Any and all costs to complete any of the required information are my responsibility. (Note: Falsification of credit information may be a federal offense and may result in exemption from discharge in the event a petition for bankruptcy is filed).

_____ _____

Applicant (print) Co-applicant (print)

_____ _____

Applicant Signature Date Signed

Co-applicant Signature Date Signed

UST Operator Inspection - Utah

YEAR _____

Facility Name	Facility ID
Address	**Primary Class B Operator**
NAME(S) AND INITIALS OF PERSON(S) CONDUCTING MONTHLY INSPECTIONS:	

Please respond to **ALL** of the following questions with a **Y** (Yes), **N** (No), or **NA** (Not Applicable) answer.

	Months of the Current Year	**J**	**F**	**M**	**A**	**M**	**J**	**J**	**A**	**S**	**O**	**N**	**D**
	Monthly Inspection – Release Detection												
1	Release detection equipment is operating with no alarms or other unusual operating conditions.												
2	Records of release detection (tanks and piping) are reviewed and current.												
	Monthly Inspection – Spill Prevention Equipment												
3	Equipment is undamaged, intact and free from defects.												
4	Equipment is free from debris, water, or product.												
5	Fill Pipe is unobstructed.												
6	Fill cap is un-broken and is securely on the fill pipe.												
7	Double walled spill prevention equipment - Interstitial area is free from leaks.												
	Initials of person performing Inspection.												

	Annual Inspection – Containment Sumps		**Date of annual Inspection**
8	**Secondary Containment Sumps (STP, Dispenser and Transition)**	Visual Inspection of sump indicates no damage and it is free from debris, water and fuel.	
		The penetration fittings for conduits and piping entering the STP Sumps are intact.	
9	**Double Walled Sumps**	Interstitial area is free from leaks.	
10	**Hand-held release detection equipment**	Hand-held release detection equipment (bailer, gauge stick, etc.) is serviceable and operable.	

I certify under penalty of law that I am the Class B Operator referenced above and that I am familiar with information on this form and that it is true, accurate and was completed in accordance with R311-203-7.

Signature of the Primary Class B Operator (**Sign this document after the last inspection of the Current Year**) B Operator #	Date

Comments/Follow up:

Turn over for record of Interstitial Monitoring visual inspections and Impressed Current rectifier checks.

If you perform Interstitial Monitoring on your tanks and/or piping and use a visual check rather than sump or interstitial sensors for your monthly leak detection, complete the table to document the monthly visual checks.													
	Months of the Current Year	J	F	M	A	M	J	J	A	S	O	N	D
1	Visual check of the interstitial space of the double-walled tank indicated no release or unusual operating conditions.												
2	Visual check of piping (STP, dispenser and transition) containment sumps indicates normal function and no indication of water or leaked product.												

Impressed Current 60 Day Rectifier Check												
Months of the Current Year	**J**	**F**	**M**	**A**	**M**	**J**	**J**	**A**	**S**	**O**	**N**	**D**
Show the date the Impressed Current system was inspected to ensure the equipment is running properly												
Amperage reading from impressed current rectifier												
Voltage reading from impressed current rectifier												

INSTRUCTIONS

1. The monthly UST system inspections must be conducted by or under the direction of the Primary Class B UST Operator.
2. The Primary Class B UST Operator must alert the UST Owner or Operator of any condition discovered during the monthly visual inspection that may require follow-up actions.
3. The UST Owner or Operator must maintain a copy of the monthly inspection reports for the most recent 12 months. The records shall be maintained on-site or off-site at a readily available location.

Ver. 4/14/2016

UTAH DEPARTMENT of ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE & REMEDIATION

UTAH CONTAINMENT SUMP TEST
Hydrostatic Test Form

Facility Name		**Facility ID**
Address	**Tester's Name**	
	Test Date	**Phone**

Type of containment Sump	☐ Dispenser ☐ Transition ☐ Tank Top	☐ Dispenser ☐ Transition ☐ Tank Top	☐ Dispenser ☐ Transition ☐ Tank Top	☐ Dispenser ☐ Transition ☐ Tank Top	☐ Dispenser ☐ Transition ☐ Tank Top	☐ Dispenser ☐ Transition ☐ Tank Top
Sump ID (e.g. dispenser #, tank location, product, etc.)						
Sump Material						
Construction	☐ Single walled ☐ Double walled	☐ Single walled ☐ Double walled	☐ Single walled ☐ Double walled	☐ Single walled ☐ Double walled	☐ Single walled ☐ Double walled	☐ Single walled ☐ Double walled
Liquid and debris removed	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Visual Inspection No cracks, holes or separations.	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail
Containment Sump Depth						
Height from bottom to top of highest penetration						
Start Level						
Start Time						
Ending Level						
End Time						
Test Period (Minimum of 1 hour)						
Water Level Change						
Test Results	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail
Photos indicating water levels attached?	☐	☐	☐	☐	☐	☐

Pass/fail criteria: Must pass visual inspection, test duration at least one hour, must include photos with this form, water level drop of less than 1/8 inch. Ref: PEI/RP 1200 6.5 Test Method

How was the liquid disposed?

Comments

I certify under penalty of law that the above information is true, accurate and complete.

Aug 2016

Tester's Signature_____

UTAH DEPARTMENT of ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE & REMEDIATION

UTAH SPILL PREVENTION TEST
Spill Bucket Hydrostatic Test Form

Facility Name		**Facility ID**
Address	**Tester's Name**	
	Test Date	**Phone**

Tank number						
Product Stored						
Capacity						
Manufacturer						
Construction	☐ Single walled ☐ Double walled	☐ Single walled ☐ Double walled	☐ Single walled ☐ Double walled	☐ Single walled ☐ Double walled	☐ Single walled ☐ Double walled	☐ Single walled ☐ Double walled
Liquid and debris removed	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Visual Inspection No cracks, holes or separations.	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail
Tank riser cap included in test?	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Is drain valve included in test?	☐ Yes ☐ No ☐ N/A	☐ Yes ☐ No ☐ N/A	☐ Yes ☐ No ☐ N/A	☐ Yes ☐ No ☐ N/A	☐ Yes ☐ No ☐ N/A	☐ Yes ☐ No ☐ N/A
Start Level						
Start Time						
Ending Level						
End Time						
Test Period (Minimum of 1 hour)						
Change in Level						
Test Results	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail	☐ Pass ☐ Fail
Photos indicating water levels are attached?	☐	☐	☐	☐	☐	☐

Pass/fail criteria: Must pass visual inspection, test duration at least one hour, must include photos with this form, water level drop of less than 1/8 inch. Ref: PEI/RP 1200 6.2.5 Test Procedure

How was the liquid disposed?

Comments

I certify under penalty of law that the above information is true, accurate and complete.

Aug 2016

Tester's Signature_____