

petroleum shall be analyzed for appropriate constituents as determined by the Executive Secretary.

~~(7)E~~ ~~[Environmental samples which have been collected to determine levels of e]Contamination for an unknown petroleum product type[shall be analyzed for]~~

~~(i) total petroleum hydrocarbons (purgeable TPH as gasoline range organics C₆ - C₁₀) by either EPA 8015 or EPA 8260;~~

~~(ii) total petroleum hydrocarbons (extractable TPH as diesel range organics C₁₀ - C₂₈) by EPA 8015;~~

~~(iii) oil and grease (O and G) or total recoverable petroleum hydrocarbons (TRPH) by EPA 1664; and~~

~~(iv) benzene, toluene, ethylbenzene, xylenes[and], naphthalene (BTEXN)[and], methyl tertiary butyl ether (MTBE)[], and [for]halogenated volatile organic compounds (VOX) by either EPA 8021 or EPA 8260.~~

~~(8)2~~ All original laboratory sample results must be returned to the certified groundwater and soil sampler or certified UST consultant to verify all chain of custody protocols, including holding times and analytical procedures, were properly followed. Environmental samples shall be collected and transported under chain of custody according to EPA methods as approved by the Executive Secretary.

~~(9)3~~ Reporting limits used by laboratories analyzing environmental samples taken under this rule shall be below initial screening levels for the contaminated media under study. Environmental samples shall be analyzed with the least possible dilution to ensure reporting limits are below initial screening levels to the extent possible. If more than one determinative analysis is performed on any given environmental sample, the final dilution factor used and the reporting limit must be reported by the laboratory. As an alternative to diluting environmental samples, the laboratory shall consider using appropriate analytical cleanup methods and describe which analytical cleanup methods were used to eliminate or minimize matrix interference. Any analytical cleanup method used must not eliminate the contaminant of concern or target analyte.

KEY: petroleum, underground storage tanks

Date of Enactment or Last Substantive Amendment: ~~May 15, 2006~~ 2011

Notice of Continuation: April 18, 2007

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403; 19-6-413

Environmental Quality, Environmental
Response and Remediation
R311-206

Underground Storage Tanks: Financial
Assurance Mechanisms

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34273

FILED: 12/01/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The fire code reference is changed to match the fire code version referenced in the state fire code. The new version of the EPA Significant Operational Compliance matrices is incorporated so the rule will remain current.

SUMMARY OF THE RULE OR CHANGE: Removes the reference to the International Fire Code and inserts a reference to the Utah State Fire Code. Incorporates by reference the new version of the EPA Release Prevention and Release Detection matrices used for determining significant operational compliance.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-403 and Section 19-6-428

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Release Detection Compliance Measures Matrix, published by United States Environmental Protection Agency, 03/03/2005

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No cost or savings--only involves changing the incorporation references. Requirements of the documents incorporated and referenced have not changed materially.

◆ **LOCAL GOVERNMENTS:** No cost or savings--only involves changing the incorporation references. Requirements of the documents incorporated and referenced have not changed materially.

◆ **SMALL BUSINESSES:** No cost or savings--only involves changing the incorporation references. Requirements of the documents incorporated and referenced have not changed materially.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No cost or savings--only involves changing the incorporation references. Requirements of the documents incorporated and referenced have not changed materially.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are anticipated. Changes are made only in the incorporation references. Requirements of the documents incorporated and referenced have not changed materially.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact from these changes. The requirements of the documents referenced are essentially the same as the previous versions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,
DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND
REMEDATION
ROOM FIRST FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Gary Astin by phone at 801-536-4103, by FAX at
801-359-8853, or by Internet E-mail at gastin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO
LATER THAN AT 5:00 PM ON 01/14/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC
HEARING REGARDING THIS RULE:

♦ 01/06/2011 02:00 PM, MASOB, 195 N 1950 W, Room 1015,
Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/14/2011

AUTHORIZED BY: Brent Everett, Director

R311. Environmental Quality, Environmental Response and Remediation.

R311-206. Underground Storage Tanks: Financial Assurance Mechanisms.

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 ~~[2000 International Fire Code, Chapters 22 and 34, published by the International Code Council, Inc.]~~ Utah State Fire Code adopted pursuant to Section 53-7-106;

(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.

R311-206-10. 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 Executive Secretary 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) Effective January 1, 2007, and until December 31, 2007, the Executive Secretary 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 ~~[September 30, 2003]~~ 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.

(c) Effective January 1, 2008, the Executive Secretary may determine that reasonable cause exists if:

(1) the owner or operator meets the requirements of Subsections (b)(1) and (b)(2) above, and

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

KEY: hazardous substances, petroleum, underground storage tanks

Date of Enactment or Last Substantive Amendment: ~~[August 18, 2008]~~ 2011

Notice of Continuation: April 18, 2007

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