



Performance Note
SB0040 - Petroleum Storage
Tanks Amendments
Sponsor: Sen. Hinkins, David P.



Performance Note Report

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Agency: Department of Environmental Quality

Funding For:

Serving a New or Larger Population

Public Benefit:

Purpose: Ensure that the owner or operator of above-ground petroleum storage tanks that have underground piping or rest directly on the ground provide financial responsibility by participating in the Environmental Assurance Program or demonstrating coverage through another method approved by the board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. This financial responsibility must cover the cost of investigation, abatement action, and corrective action of a release from the above-ground petroleum storage tank as well as the payment of judgments, awards, and settlements to third parties for bodily injury or property damage stemming from the release.

Services: Although no new services will be created, existing services that have been focused on federally regulated underground storage tanks will now be extended to some above-ground petroleum storage tanks. Above-ground tanks that choose to participate in the Environmental Assurance Program will benefit from the following services: periodic inspections, compliance oversight, and reimbursement of the cost to remediate a release from a participating tank. Above-ground petroleum storage tank facilities that choose to meet the financial assurance requirement using another mechanism will be subject to annual verification that their mechanism meets the requirements of the rule as well as compliance oversight of investigation, abatement action, and corrective action of any releases from their above-ground petroleum storage tanks. The clean-up oversight costs for these facilities will be billed to the responsible party. When releases have been cleaned up to applicable standards, a no further action letter will be issued to the owner regardless of their financial assurance mechanism.

Expected Outcome: Year one (July 1, 2021 June 30, 2022): Compile a comprehensive inventory of facilities that have above-ground storage tanks that fall under the definition of above-ground petroleum storage tanks as determined in this bill and make them aware of the upcoming requirements. The Division of Environmental Response and Remediation (DERR) will also work with the Waste Management and Radiation Control Board to complete all required rulemaking. Year two (July 1, 2022 June 30, 2023): All facilities with above-ground petroleum storage tanks will have a financial responsibility mechanism in place by the end of the year. Any that do not will have a delivery prohibition tag in place beginning June 30, 2023. Year three (July 1, 2023 June 30, 2024): Apply tags (red tags) to all above-ground petroleum storage tanks that are not certified by the Director. Continue to review financial assurance mechanism documents on an annual basis. Inspect and follow-up on compliance issues for all above-ground petroleum storage tanks that choose to participate in the environmental

assurance program. Provide cleanup oversight on above-ground petroleum storage tank releases that are reported.

Implementations and Resources: This bill will be implemented by the Division of Environmental Response and Remediation. Most resources required to implement this program are already in place in the existing underground storage tank program. The existing staff technical expertise, facilities, and equipment will directly translate to the new program. The existing tank database is already designed to accommodate above-ground storage tanks (AST) that voluntarily participate in the PST Fund and will need very few modifications. We do anticipate one additional FTE the first year to support the AST notification effort rulemaking and outreach. This position will continue in future years to support financial assurance mechanism document review, review of applications to participate in the environmental assurance program (PST Fund), and ongoing inspection and compliance follow-up for those that do participate. Beginning year two we anticipate the need for one additional FTE to oversee and manage cleanups of above-ground petroleum storage tank releases (both those covered by the PST Fund and those on other mechanisms).

How: Year one: Compile a comprehensive inventory of facilities that have above-ground storage tanks that fall under the definition of above-ground petroleum storage tanks as determined in this bill. This will be done through the notification process outlined in the bill in conjunction with extensive outreach to those entities with facilities that may fall under this new requirement. As notifications are received, the owner and operator of the tanks will be provided information on the financial responsibility requirements, including the compliance deadline of June 30, 2023. Outreach materials will also include details of the various options available to meet that requirement. The DERR will also work with the Waste Management and Radiation Control Board and the Division of Administrative Rules to complete all required rulemaking. Year two: Follow-up with the owners or operators of all above-ground petroleum storage tanks that have notified the Division and provide additional information and assistance on the financial responsibility requirements due at the end of the year. As applications for participation in the Environmental Assurance Program are received, they will be reviewed and approved when the requirements for participation have been met. The financial assurance mechanism documents for those utilizing other approved financial assurance mechanisms will be reviewed and approved, if appropriate. Once an owner has met the financial responsibility requirement they will be provided documentation of compliance in a manner determined by rule. Year three: Apply tags (red tags) to all tanks that are not certified by the Director. Follow-up on any issues with deliveries to tanks that are red-tagged. Work with owners and operators that have not met program requirements and assist them in coming into compliance. Continue to review financial assurance mechanism documents on an annual basis. Inspect and follow-up on compliance issues for all above-ground petroleum storage tanks that choose to participate in the environmental assurance program. Provide cleanup oversight on above-ground petroleum storage tank releases that are reported.

Performance Measures

Goal

Title: Goal Title: Above-ground petroleum storage tanks in compliance with financial assurance requirement, to begin reporting at the end of year two.

Description: This measure shows the number of above-ground petroleum storage tanks that have an eligible financial assurance mechanism in place to pay the costs to investigate and clean-up petroleum releases from the tank and pay any associated third-party damages.

Collection Method: This performance information will be collected by review of submitted financial assurance mechanism documents and, in some cases, on-site inspections. To ensure reliability, this information will be reviewed and updated annually and will be maintained in the Tanks Database (the DERRs enterprise SQL Server database that houses all Storage Tank data).

	2021	2022	2023
Target	0.00	0.00	0.00
Baseline	0.00	0.00	0.00

By rule, performance notes are provided by the governmental entity that will supervise the new agency or administer the new program. Performance notes are not written by the Office of the Legislative Fiscal Analyst.