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TANK EDITION

5 Tips For Writing Tank Pollution Liability and Meeting Financial Responsibility Requirements In All 50 States



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First change in over 28 years.

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OTHER ENVIRONMENTAL PROSPECTS WE CAN HELP WITH!

- General Construction Firms
- Fire & Water Restoration Contractors
- Mold/Asbestos/Lead Contractors
- Asphalt and Paving Contractors
- Environmental Contractors
- Waste Water Treatment Plants
- Landfills
- Farms
- Municipalities
- School Districts
- Plumbers, Roofers, and Artisan Contractors
- Hotels, Condo & Apartment Building Owners or Managers
- Property Transfers Including Purchase & Sales, Mergers & Acquisitions
- Roustabouts, Freshwater Haulers, & Fracking Support Contractors

1

What Does a Tank Pollution Liability Policy Cover?

& Why Buy It?

ALL Underground storage tanks (UST's) and some above ground storage tank (AST) are required by law and regulated by the EPA to carry proof of financial responsibility (FR) in the event of a loss. A mechanism accepted by all 50 states and the EPA for proof of FR is private insurance. Tank Pollution liability policies are a statutory form that meet underground storage tank financial responsibility requirements set forth in 40 CFR 280-95-280-102 regulations. Only policies and endorsements with the statutory form meet compliance for both the state and EPA. Providing FR is very important to an insured as non-compliance results in closing down operations and a fine to the insured starting at \$10,000 a day for everyday they remain in non-compliance. Therefore, if you have an insured with UST's

and/or AST's it is important to ask how they remain in compliance and verify their policy includes the statutory form set forth in 40 CFR 280-95-280-102 regulations.

What is covered?

The policy intent is only for providing coverage from a confirmed release from a tank system. A tank system includes the tank, piping, pump, etc. The policy does not cover replacements costs meaning the tank itself will not be replaced in the event of a leak/loss. The policy only provides BI and correction action coverage from a scheduled storage tank and any non-pollution incident won't be covered. For example, there is no bodily injury coverage for anyone slipping or falling at the facility.



2

How to Get Financial Responsibility on Tanks 25+ Years old?

Underwriting guidelines for many insurance carriers offering Tank pollution liability only allow for tanks to be max 25 years old. (There are instances where carriers can write tanks older than 25 years old but this is based on many underwriting factors). Should you have an insured with older tanks and your coverage has been denied you can acquire FR a different way.

What to include in a tank submission on older tanks? Or any tank submission...

- Tank and line Tightness Tests
- Loss Runs
- Copy of expiring policy with tank schedule (If they have held insurance in the past)
- Last 2 years of Financial Statements
- Complete Tank Pollution liability application that includes tanks construction, size, contents, and installation date

IMPORTANT TO NOTE: Private insurance does not consider relining the tanks interior as an expectation to tank installation dates. Example tank installed in 1991 but relined in 2006. Tank age is still 25 years old.

Tank installation date(s) is the original tank purchase date by owner of the tank system

continued on next page

FINANCIAL RESONSIBILITY continued

How You Can Demonstrate Financial Responsibility In All 50 States.

There are several options for demonstrating financial responsibility (each option is described fully in the Code of Federal Regulations, 40 CFR Part 280):

- **USE STATE FINANCIAL ASSURANCE FUNDS.** Your state may pay for some cleanup and third-party liability costs.
- **OBTAIN INSURANCE COVERAGE.** Insurance may be available from a private insurer or a risk retention group
- **OBTAIN A GUARANTEE.** You may secure a guarantee for the coverage amount from another firm with whom you have a substantial business relationship. The provider of the guarantee has to pass one of the financial tests about to be described.
- **OBTAIN A SURETY BOND.** A surety bond is a guarantee by a surety company that it will meet your financial responsibility obligations.
- **OBTAIN A LETTER OF CREDIT.** A letter of credit is a contract involving you, an issuer (usually a bank), and a third party (such as the implementing agency) that obligates the issuer to help you demonstrate your financial responsibility.
- **PASS A FINANCIAL TEST.** If your firm has a tangible net worth of at least \$10 million, you can prove your financial responsibility by passing one of the two financial tests described on page 9.
- **SET UP A TRUST FUND.** You may set up a fully-funded trust fund administered by a third party to demonstrate financial responsibility.
- **USE OTHER STATE METHODS.** You may also use any additional methods of coverage approved by your state. Visit your state UST/AST Compliance department for details.

Learn more *HERE*: <https://www.epa.gov/ust>



3

EPA Changes to Underground Storage Tank Regulation:



July of 2015 regulation was changed to certain areas of the 40 CFR part 280. How do these vary from the 1988 regulations?

- Added secondary containment requirements for new and replaced tanks and piping
- Added operator training requirements
- Added periodic operation and maintenance requirements for UST systems
- Added requirements to ensure UST system compatibility before storing certain biofuel blends
- Removed past deferrals for emergency generator tanks, field constructed tanks, and airport hydrant systems
- Updated codes of practice
- Made editorial and technical corrections

*Taken directly from the EPA website

To read the full changes you can visit the EPA website here: <https://www.epa.gov/ust/revising-underground-storage-tank-regulations-revisions-existing-requirements-and-new>

If your insured has purchased a tank insurance policy after July of 2015: These changes are already reflected in the carriers underwriting subjectivities and issuance of Tank Pollution Liability policies on their Statutory forms for FR.



Insured's Tank is Empty or Being Removed:

What to do?



An empty tank with plans to close in place or remove is actually excellent for the insured because proof of financial responsibility

is no longer required for a tank that does not or soon will not exist. For insurance purposes carriers cannot insure a tank that is empty because there are no pollution risks associated with an empty tank. Unless their intent would be to refill and reuse the tank at a future date. But, carriers can only be write if there is product in the tank.

4

Plans to remove the tank?

IMPORTANT TO NOTE: Tank pollution liability policies carry an exclusion for coverage if there is a known removal is happening at the scheduled location.

Helpful Tips:

- no product = no risk = no coverage needed for FR
- Plans to remove = no underwriter will write and policy excludes remediation
- Tank is Empty = Must provide plans to close in place with date of completion or fill tank with product before underwriting

If closing in place or removing: The insured must contact their UST Regulator in their state to establish a relationship and plans to either remove tanks or close in place. This is very important to avoid non-compliance fees and issues with state records in the future.

Why Do



Tank Pollution Liability Premiums Increase Annually

5

Even Though Exposure Has Not Changed?

Technically the exposure is changing with tanks because every year they get one year older and underwriting is based on the projected year ahead. Tank pollution liability premiums do increase every year. The reason they increase is every year the tanks age so does the potential of a leak due to the age. The older the tanks the greater the likelihood of a potential loss. Therefore, the older the tanks get the more expensive the insurance premium will become over time. A tank that is 5 years' vs 15 years will have a lower premium, and so on.

Ways to avoid large premium changes:

- Answer all the questions in the renewal application. Questions that are left blank force an unknown response in an underwriters rating model and this carries the highest rate possible.

What Factors Influence premium of Tank pollution liability

- Location of site: Near water, airport, etc.
- Age: When the tanks were installed
- Contents: Petroleum based vs. non
- Size: 5,000 gallons vs. 30,000 gallons
- Monitoring: Spill prevention plan and monitoring vs. no safety precautions or plan



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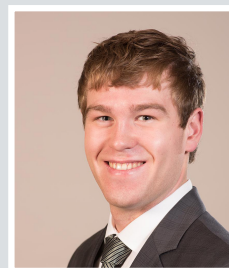
Meet Your Tank Pollution Liability Specialists at ARMR.

*We are here to
Help Review and Answer Any Questions
you may have.*



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American Risk Management Resources Network, LLC is a wholesale brokerage firm that can help with many different environmental insurance placements not just Tanks! There are many hidden opportunities in many classes of business! See a comprehensive list at the bottom of page 1.