

MICHIGAN DEPARTMENT
OF ENVIRONMENTAL
QUALITY
STORAGE TANK DIVISION

FINANCIAL
RESPONSIBILITY (FR)
FOR
UNDERGROUND STORAGE
TANKS

WHO IS REQUIRED TO HAVE FR

- Owners and operators (O/O) of registered petroleum underground storage tanks
- If the O/O are separate persons, only 1 need comply

WHO IS EXEMPT FROM FR

- State and federally owned facilities
- Farm and residential tanks less than 1,100 gallons
- Heating oil tanks

FR COMPLIANCE DATES

- July 1995
- Phased in approach
- Previously required by field inspectors
- Beginning fiscal year 2001, submittal to Lansing with registration fees.

\$ AMOUNT REQUIRED MARKETING FACILITIES

- \$1,000,000 per occurrence
- \$1,000,000 aggregate (1-100 tanks)
- \$2,000,000 aggregate (101 tanks or more)

\$ AMOUNT REQUIRED NON-MARKETING FACILITIES

- \$500,000 per occurrence (monthly average useage is less than 10,000 gal)
- \$1,000,000 per occurrence (monthly average usage is over 10,000 gal)
- \$1,000,000 aggregate (1-100 tanks)
- \$2,000,000 aggregate (101 tanks or more)

ALLOWABLE MECHANISMS OF FR

- Insurance
- Financial test of self-insurance
- Guarantee
- Surety bond
- Letter of credit
- Trust fund

CERTIFICATE OF INSURANCE EXAMPLE

NAME: (NAME OF COVERED LOCATION)

ADDRESS: (ADDRESS OF COVERED LOCATION)

POLICY NUMBER:

ENDORSEMENT: (IF APPLICABLE)

PERIOD OF COVERAGE:

NAME OF INSURER:

ADDRESS OF INSURER:

NAME OF INSURED:

ADDRESS OF INSURED:

CERTIFICATION:

- 1. NAME OF INSURER, THE "INSURER", AS IDENTIFIED ABOVE, HEREBY CERTIFIES THAT IT HAS ISSUED LIABILITY INSURANCE COVERING THE FOLLOWING UNDERGROUND STORAGE TANK (S):**

FOR TAKING CORRECTIVE ACTION AND COMPENSATING THIRD PARTIES FOR BODILY INJURY AND PROPERTY DAMAGE CAUSED BY EITHER SUDDEN ACCIDENTAL RELEASES OR NON-SUDDEN ACCIDENTAL RELEASES OR ACCIDENTAL RELEASES, IN ACCORDANCE WITH AND SUBJECT TO THE LIMITS OF LIABILITY, EXCLUSIONS, CONDITIONS, AND OTHER TERMS OF THE POLICY ARISING FROM OPERATING THE UNDERGROUND STORAGE TANK (S) IDENTIFIED ABOVE.

THE LIMITS OF LIABILITY ARE \$ _____ EACH OCCURRENCE AND \$ _____ ANNUAL AGGREGATE EXCLUSIVE OF LEGAL DEFENSE COSTS, WHICH ARE SUBJECT TO A SEPARATE LIMIT UNDER THE POLICY. THIS COVERAGE IS PROVIDED UNDER POLICY NUMBER. THE EFFECTIVE DATE OF SAID POLICY IS _____.

- 1. THE INSURER FURTHER CERTIFIES THE FOLLOWING WITH RESPECT TO THE INSURANCE DESCRIBED IN PARAGRAPH 1:**
 - a) BANKRUPTCY OR INSOLVENCY OF THE INSURED SHALL NOT RELIEVE THE INSURER OF ITS OBLIGATIONS UNDER THE POLICY TO WHICH THIS CERTIFICATE APPLIES.**

- a) **THE INSURER IS LIABLE FOR THE PAYMENT OF AMOUNTS WITHIN ANY DEDUCTIBLE APPLICABLE TO THE POLICY TO THE PROVIDER OF CORRECTIVE ACTION OF A DAMAGED THIRD-PARTY, WITH A RIGHT OF REIMBURSEMENT BY THE INSURED FOR ANY 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 OF COMBINATION OF MECHANISM AS SPECIFIED IN 40 CFR 180.95-280.102.**

- b) **WHENEVER REQUESTED BY THE DIRECTOR OF AN IMPLEMENTING AGENCY, THE INSURER AGREES TO FURNISH TO THE DIRECTOR A SIGNED DUPLICATE ORIGINAL OF THE POLICY AND ALL ENDORSEMENTS.**

- c) **CANCELLATION OF ANY OTHER TERMINATION OF THE INSURANCE BY THE INSURER, EXCEPT FOR NON-PAYMENT OF PREMIUM OR MISREPRESENTATION BY THE INSURED, WILL BE EFFECTIVE ONLY UPON WRITTEN NOTICE AND ONLY AFTER THE EXPIRATION OF 60 DAYS AFTER A COPY OF SUCH WRITTEN NOTICE IS RECEIVED BY THE INSURED.**

- a) **THE INSURANCE COVERS CLAIMS OTHERWISE COVERED BY THE POLICY THAT ARE REPORTED TO THE INSURER WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF CANCELLATION OF NON-RENEWAL OF THE POLICY EXCEPT WHERE THE NEW OR RENEWED POLICY HAS THE SAME RETROACTIVE DATE OR A RETROACTIVE DATE EARLIER THAN THAT OF THE PRIOR POLICY, AND WHICH ARISE OUT OF ANY COVERED OCCURRENCE THAT COMMENCED AFTER THE POLICY RETROACTIVE DATE, IF APPLICABLE, AND PRIOR TO SUCH POLICY RENEWAL OR TERMINATION DATE. CLAIMS REPORTED DURING SUCH EXTENDED REPORTING PERIOD ARE SUBJECT TO THE TERMS, CONDITIONS, LIMITS, INCLUDING LIMITS OF LIABILITY, AND EXCLUSIONS OF THE POLICY.**

I HEREBY CERTIFY THAT THE WORDING OF THIS INSTRUMENT IS IDENTICAL TO THE WORDING IN 40 CFR 280.97 (B) (2) AND THAT THE INSURER IS LICENSED TO TRANSACT THE BUSINESS OF INSURANCE, OR ELIGIBLE TO PROVIDE INSURANCE AS AN EXCESS OR SURPLUS INSURER, IN ONE OR MORE STATES.

[Signature of authorized representative of Insurer]

[Type Name]

[Title]

[Address of Representative]

Things to remember (Insurance)

- List of facilities and addresses covered by the policy
- Signed by the insurance representative
- No binders
- The policy is current (valid dates)
- Pollution Insurance (not general liability)
- If policy is cancelled insurer is required to notify STD

INSURANCE COMPANIES

- ZURICH
- AGRICULTURAL EXCESS AND SURPLUS
- COMMERCE AND INDUSTRY
- COLONY
- KEMPER
- LLOYDS OF LONDON

Financial Test of Self Insurance

- Must have tangible net worth of \$10 million
- Filed Financial statements with one of the following:
 - US Securities and Exchange Commission
 - Energy Information Administration
 - Rural Electrical Administration
 - Have a Dunn and Bradstreet rating of 4A or 5A

LETTER FROM CHIEF FINANCIAL OFFICER

I am the chief financial officer of [insert: name and address of the owner or operator, or guarantor]. This letter is in support of the use of [insert: “the financial test of self-insurance,” and/or “guarantee”] to demonstrate financial responsibility for [insert: “taking corrective action” and/or “compensating third parties for bodily injury and property damage”] caused by [insert: “sudden accidental releases” and/or “nonsudden accidental re-leases”] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test or a financial test under an authorized State program by this [insert: “owner or operator,” and/or “guarantor”]: [List for each facility: the name and address of the facility where tanks assured by this financial test are located, and whether tanks are assured by this financial test or a financial test under a State program approved under 40 CFR part 281. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test or a financial test under a State program authorized under 40 CFR part 281 by the tank identification number provided in the notification submitted pursuant to 40 CFR 280.22 or the corresponding State requirements.] A [insert: “financial test,” and/or “guarantee”] is also used by this [insert: “owner or operator,” or “guarantor”] to demonstrate evidence of financial responsibility in the following amounts under other EPA regulations or state programs authorized by EPA under 40 CFR parts 271 and 145:

This [insert: “owner or operator,” or “guarantor”] has not received an adverse opinion, a disclaimer of opinion, or a “going concern” qualification from an independent auditor on his financial statements for the latest completed fiscal year. [Fill in the information for Alternative I if the criteria of paragraph (b) of § 280.95 are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of paragraph (c) of § 280.95 are being used to demonstrate compliance with the financial test requirements.]

Alternative I

1. Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee \$ _____
2. Amount of corrective action, closure and post closure care costs, Liability coverage, and plugging and abandonment costs covered by a Financial test and/or guarantee \$ _____
3. Sum of lines 1 and 2 \$ _____
4. Total tangible assets \$ _____
5. Total liabilities [if any of the amounts reported on line 3 is Included in total liabilities, you may deduct that amount from this line And add that amount to line 6] \$ _____
6. Tangible net worth [subtract line 5 from line 4] \$ _____
Yes No
7. Is line 6 at least \$10 million? ____ ____
8. Is line 6 at least 10 times line 3? ____ ____
9. Have financial statements for the latest fiscal year been filed with the Securities and Exchange Commission? ____ ____
10. Have financial statements for the latest fiscal year been filed with the Energy Information Administration? ____.....____
11. Have financial statements for the latest fiscal year been filed with the Rural Electrification Administration? ____ ____
12. Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of 4A or 5A? [Answer “Yes” only if both criteria have been met.]

Alternative II

1. Amount of annual UST aggregate coverage being assured by a test, and/or guarantee \$_____
 2. Amount of corrective action, closure and post closure care costs, Liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee \$_____
 3. Sum of lines 1 and 2 \$_____
 4. Total tangible assets \$_____
 5. Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6] \$_____
 6. Tangible net worth [subtract line 5 from line 4] \$_____
 7. Total assets in the U.S. [required only if less than 90 percent of assets are located in the U.S.] \$_____
- Yes No
8. Is line 6 at least \$10 million? \$____
 9. Is line 6 at least 6 times line 3? ____
 10. Are at least 90 percent of assets located in the U.S.? [If "No," complete line 11.] ____
 11. Is line 7 at least 6 times line 3? ____
- [Fill in either lines 12–15 or lines 16–18:]
12. Current assets \$_____
 13. Current liabilities \$_____
 14. Net working capital [subtract line 13 from line 12] \$_____
- Yes No
15. Is line 14 at least 6 times line 3? ____
 16. Current bond rating of most recent bond issue ____
 17. Name of rating service ____
 18. Date of maturity of bond ____

Alternative I—Continued

19. Have financial statements for the latest fiscal year been filed with the SEC, the Energy Information Administration, or the Rural Electrification Administration? ____ _

[If “No,” please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines 4–18 above and the financial statements for the latest fiscal year.]

[For both Alternative I and Alternative II complete the certification with this statement.]

I hereby certify that the wording of this letter is identical to the wording specified in 40 CFR part 280.95(d) as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

Local Units of Government

- Local government bond rating test
- Local government financial test
- Local government guarantee
- Local government fund