



Financial Responsibility Mechanisms

A single mechanism or a combination of mechanisms can be used to provide financial responsibility. An owner or operator using the state fund also must use one or more of the other mechanisms for the deductible – currently \$25,000 per occurrence. Please note the State Fund requires that all other financial responsibility mechanisms being used must be exhausted before the State Fund can be used.

The following information is only an outline of the various financial responsibility mechanisms. Specific language that must be used for the tests, policies or letters can be found in the S.C. Underground Storage Tank (UST) Control Regulations, R.61-92, Part 280. The documentation required to be submitted with the Certificate of Financial Responsibility is listed with each mechanism.

Financial Responsibility Mechanisms in Detail

1. STATE FUND (SUPERB)

The State Underground Petroleum Environmental Response Bank (SUPERB) Account can be used to cover site rehabilitation costs and the SUPERB Financial Responsibility Fund to cover third-party claims. The two state assurance funds provide a combined maximum coverage of \$1,000,000 per occurrence to cover these costs after payment of the deductible.

Required Documentation:

- Proof of any mechanism listed below is required.

2. SELF INSURANCE

SECTION 280.95

The owner or operator must pass a financial test as specified in Section 280.95. Refer to Section 280.95 for tests and language to be used.

Required Documentation:

- A financial self-test letter from the chief financial officer is required.
- A report must be prepared by a certified public accountant (CPA) as stated in Section 280.95.

SECTION 280.101

The owner or operator uses this method of self insurance in conjunction with the State Fund. Self insurance requires that an owner or operator show an actual net worth of \$50,000. An annual financial statement and letter – prepared by

a CPA, a licensed public accountant (LPA), a board-licensed accounting practitioner or the chief financial officer of the company – must be provided. Visit the S.C. Department of Labor, Licensing and Regulation at llr.sc.gov/ for a list of these professionals.

Required Documentation:

- An annual financial statement and a letter from one of the above entities is required.

3. GUARANTEE

A guarantee is a promise by a third party (the guarantor) to fund a standby trust fund. The guarantee is issued by a third party with a significant business interest in the owner or operator. The third party must prove information outlined in Self Insurance section – listed previously. Refer to Section 280.96 for language to be used.

Required Documentation from the Guarantee:

- An annual financial statement sent from guarantor must be submitted.
- A letter from a CPA, LPA, board-licensed accounting practitioner or the chief financial officer of the company is required.

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4. POLLUTION LIABILITY INSURANCE

The owner or operator must obtain liability insurance from a qualified insurer or risk retention group. The policy must specifically address releases from USTs. Refer to Section 280.97 for the language to be used.

Required Documentation:

- A copy of the full policy including all Endorsements is required.

5. SURETY BOND

A surety bond is a guarantee by a surety company that will meet the obligation of the owner or operator. Surety companies eligible to issue surety bonds are listed in Circular 570 – issued annually by the U.S. Department of the Treasury. Refer to Section 280.98 for the language to be used.

Required Documentation:

- A surety bond is required.

6. LETTERS OF CREDIT

A letter of credit is a contract between the issuer (normally a bank), the principal (the UST owner or operator) and the third party (SCDES). The issuer promises to pay a certain amount to the third party in the event the principal fails to meet an obligation. Letters of credit are negotiable and are stored in a vault at SCDES. Refer to Section 280.99 for language to be used.

Required Documentation:

- A letter of credit is required.

7. TRUST FUND

The owner or operator may establish a fully funded trust fund. Money for the corrective action and third-party liability costs is held and managed by an impartial third party (trustee). The trustee must have authority to act as trustee and be regulated and examined by a federal agency or a South Carolina agency. The trust fund may be funded for the full-required amount or funded for part of the required amount in combination with another mechanism. Refer to Section 280.102 for language to be used.

Required Documentation:

- The Trust Fund Agreement is needed.
- The Certification of Acknowledgement is required.

8. LOCAL GOVERNMENT OPTIONS

Local government entities may use a bond rating test, a financial test, issue a guarantee or dedicate a fund to meet financial responsibility requirements. Refer to Section 280.104-107 for tests and language.

Required Documentation:

- A letter from chief financial officer is needed.
- A local government guarantee (with Standby Trust) is required.
- A local government guarantee (without Standby Trust) also is required.