Using Commercial Insurance for your Financial Responsibility Mechanism: What you should look for in your policy

EPA REGION 6 TRIBAL UST PROGRAM
Basic Regulatory Requirements:

1. **Endorsement** if Pollution Insurance is an expansion on another policy that is in place for other facility insurance needs. OR

2. **Certificate of Insurance** These documents are provided by the insurance company and have specific language requirements that are listed in the CFR see 280.97 (b) and (d)

3. **Certification of Financial Assurance** This document is provided by the owner/operator for the tribe and must list the name of the insurance company as the financial assurance mechanism. See 280.111 (a) (11) (i)

Examples of Both of these Requirements can be found in “Dollars and $ense” EPA Publication found @ www.epa.gov/swerust1/pubs/dollars.htm  
Pollution Liability Insurance
Insurance allows you to demonstrate you have the financial resources to take corrective action & compensate third parties for damages to property and personal injury for a release at your UST facility.
Terminology in your policy to look for and understand. What do you want to cover your needs if a release of petroleum product occurs

Report any Release ASAP

1. Storage Tank or Storage Tank “System”
2. Retroactive Date/Extended Reporting Period
3. Confirmed Release/Suspected Release Policy
4. Claims Made Policy
5. First Dollar Coverage (required by EPA regulations)
6. Exclusions (always stay in compliance with the regulations)
System Components (Read Your Policy)

Does your policy cover the Tank (UST) or Tank (UST) System?
What is it?

EXCLUSIONS

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Coverage Period

Retroactive Dates &

Extended Reporting Period

Speaking of coverage, where is the driver during this delivery? Does he have to be there all the time? (Read your policy)
Retroactive Date

- Date that coverage begins. You can purchase a retroactive date *prior* to the actual date your policy is purchased. Releases are not always discovered immediately. How far back you go depends on when the system was installed and how much you want to pay.

Extended Reporting Period (Tail)

- Policies must by regulation include a six month “extended reporting period”. This gives the policy holder 6 months after the policy end date to report any release. It does not extend the policy, only time to report.
Confirmed Release Policy

*DOES NOT* cover the costs of investigating potential releases, such as tank testing, soil sampling and other expenses to CONFIRM if an insured tank is leaking or the extent of the contamination that leaked.
Suspected Release Policy

Does include “corrective action costs” incurred to investigate, quantify, assess, monitor, abate, remove, dispose, treat, neutralize or immobilize pollution.
The Policy & When it Pays
(Read your policy)

Claims-Made Policy: Only pays for claims made or reported during the period covered by the policy. Know when your Retro and Tail dates are.

First Dollar Coverage: The UST regulations require any pollution liability policy to provide this. FDC requires that if the policy has a deductible, the insurance company does not wait for you to pay the deductible amount, but begins remediation and then collects the deductible.
Non-Compliance
Tanks over 20 years of age
Natural Resources Damages
Tanks in Temporary Closure
Insurance Policy Construction

- Declaration Page: Location, Limits, Deductibles, Term etc.
- Insuring Agreement: What is intended to be covered
- Exclusions: What is not to be covered
- Limits of Insurance: How incident limits apply
- Policy Conditions: Insured’s duties in event of a claim, cancellation, other insurance
- Extended Reporting Period: Time period during which insured can report a release while the policy was in effect

- List of known insurance providers

www.epa.gov/swerust1/pubs/inslist.htm
Questions to Ask When Purchasing Tank Insurance

- What is company’s financial rating with A.M. Best, Standard & Poor’s or Moody’s?
- Are they experienced in this type of coverage?
- Have they provided coverage for other Tribes?
- Does the agent or broker know the UST regulations as they apply to a Certificate of Insurance?
- Is this a “confirmed release” or suspected release” policy
- What are the exclusions in this policy?
- What are the reporting responsibilities of the tank owner?
- What is the insurance company’s policy on old tanks?
LUST POLICY

- OUST Director Guidance October, 1989
- “Use of LUST Trust Fund at Abandoned Sites”

http://www.epa.gov/swerust1/directiv/
“Guidance for Conducting Federal-Lead UST Corrective Actions” Directive 9360.0-16A
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WEB SITES FOR MORE INFORMATION

www.epa.gov/swerust1/

www.epa.gov/oust/tribes/

www.astswmo.org
Read your Policy

http://www.neiwpcc.org/lustline

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MORE INFORMATION - BROCHURES

Read your Policy

http://www.epa.gov/oust/pubs/ustbmps.html

‘Demonstrating Financial Responsibility”

“Using Insurance to Demonstrate Financial Responsibility”

Other prevention brochures available – leak detection measures and more!
100% - Confirmed Release Policies

Most often - 6 month retroactive date

33 of 43 facilities had “Certification of Financial Responsibility” at time of inspection

Former Zurich Insurance holders used new providers
Most insurance providers on the list that OUST publishes at this website:

http://www.epa.gov/oust/pubs/inslist.htm

Will be adding 4 found to be used during inspections

Read Your Policy
WHAT YOU MAY NEED

“Certification of Financial Assurance”

Found in “Dollars and $ense” at

http://www.epa.gov/swerust1/pubs/dollars.htm

or fillable version available – just ask/email

Read Your Policy
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