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## Fund Eligibility Categories

The two primary groups that are eligible for reimbursement from the Division of Oil and Public Safety (OPS) Petroleum Storage Tank Fund (Fund) are tank owners/operators that are responsible for the release and non-responsible parties.

Click on the links below to go directly to the eligibility information for each of these Fund applicant types and the list of definitions.

### Tank Owner/Operator

- [Responsible for the Release](#)
- [Requesting a Waiver of the \\$10,000 Deductible](#)

### Non-Responsible Party

- [Property Owner](#)
- [Orphaned or Abandoned Tank\(s\) Owner](#)
- [Tank Owner/Operator \(Operative Tanks\)](#)
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### Tank Owner/Operator Responsible for the Release

In order for a tank owner/operator to be eligible for reimbursement from the Fund, a tank owner/operator must:

- Be a current or former tank owner/operator of the site where the release occurred;
- Request reimbursement for releases that were discovered on or after 7/1/1989 and for which expenses were incurred on or after 7/1/1989;
- Have registered the tank(s) and paid the current and past annual tank registration fees on a timely basis for each petroleum storage tank;
- Demonstrate that accurate and complete records are maintained for release detection and release prevention (when required by the Director);
- Comply with criteria for reporting a release to OPS;
- Meet the owner/operator criteria for corrective action as established by the Director;
- Be in substantial compliance with Colorado regulations as determined by the Petroleum Storage Tank Committee (Committee);
- Pay the environmental response surcharge that applies to petroleum products sold in Colorado; and must not be in default on any obligation caused by the environmental response surcharge;
- Demonstrate evidence of financial responsibility of \$10,000 for corrective action and \$25,000 for compensation of third parties, personal injuries and property damage; and
- Demonstrate that deductible allowable costs (leak cleanup costs) of \$10,000 and third-party liability costs of \$25,000 per leak occurrence for corrective action have been exceeded.

Failure to meet these criteria may result in denial of eligibility or percentage reductions of any reimbursement award authorized by the Committee.

The documents, listed below, that are required to support a request for eligibility as a tank owner can be found on our web site by clicking [here](#).

- Original Application or Supplemental Application
- Release detection records and release prevention records: will only be requested if OPS records are incomplete
- W-9 & IRS documentation (original or any time there is a change to this information)
- Listing of Costs
- All invoices and backup documentation that are requested for reimbursement on the Listing of Costs

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### **Tank Owner/Operator Requesting a Waiver of \$10,000 Deductible**

Certain tank owners/operators are not required to pay the first \$10,000 of remediation expenses. To establish eligibility for waiving the \$10,000 deductible, a tank owner/operator must provide proof of the following:

- Petroleum contamination was discovered while upgrading the underground storage tanks to meet the December 22, 1998, deadline for corrosion protection, spill and overfill prevention or monthly monitoring;
- The upgrade was completed no later than December 22, 1997, one year earlier than required; and
- The annual throughput of petroleum products at the site did not exceed 600,000 gallons during the year preceding the discovery of contamination.

The documents, listed below, that are required to support a request for waiving the \$10,000 deductible can be found on our website by clicking [here](#).

- Affidavit: Waiver of \$10,000 Deductible (signed before a notary public)
- Installation Inspection sheet verifying upgrade was completed by December 22, 1997
- Sales records for 12 months immediately preceding discovery of contamination

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Note: The Non-Responsible categories discussed below will not be responsible for paying the \$10,000 or \$25,000 deductible or for demonstrating compliance.

### **Non-Responsible Party Eligibility Requirements: Property Owner**

To establish Fund reimbursement eligibility as a property owner who bears no responsibility for the release, a property owner must provide proof that he or she:

- Acquired the property no later than June 3, 1992;
- Did not install petroleum storage tanks on the property;
- Never operated petroleum storage tanks on the property;
- Never leased petroleum storage tanks on the property to another person for operation;
- Had no reason to know that a release had occurred on the site when it was acquired;
- Discovered the petroleum contamination after December 22, 1988; and
- Owns a property on which contamination originated from the petroleum storage tanks on the site.

The documents, listed below, that are required to support a request for eligibility as a property owner can be found on our website by clicking [here](#).

- Copy of the deed showing when the property was acquired
- Affidavit: Property Owner (signed before a notary public)
  - If the property was acquired by inheritance, complete the Affidavit: Property Owner (Inherited Property)
- Copy of any lease(s) whereby the property was leased to another person
- Evidence that tanks were present at one time (if tanks are no longer present on the property)
- A brief chronology describing the circumstances under which the property was acquired, whether a site assessment was performed before the acquisition and how and when the contamination was discovered

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### **Non-Responsible Party Eligibility Requirements: Orphaned or Abandoned Tank(s) Owner**

To establish Fund reimbursement eligibility as a tank owner, tank operator or property owner who bears no responsibility for the release when an orphaned or abandoned tank is involved, a tank owner must provide proof that he or she:

- Did not install petroleum storage tanks on the property;
- Never operated petroleum storage tanks on the property;
- Never leased petroleum storage tanks on the property to another person for operation;
- Had no reason to know a release had occurred on the site when the site was acquired;
- Discovered the petroleum contamination after December 22, 1988;
- Owns a property on which contamination originated from the orphan or abandoned petroleum storage tanks on the site; and
- Had no reason to know that the petroleum storage tank existed on the site when the property was acquired.

The documents, listed below, that are required to support a request for eligibility as an orphan or abandoned tank owner can be found on our website by clicking [here](#).

- Copy of the deed showing when the property was acquired
- Affidavit: Orphan or Abandoned Tanks (signed before a notary public)
- Copy of any lease(s) whereby the property was leased to another person
- A brief chronology describing the circumstances under which the property was acquired, whether a site assessment was performed prior to acquisition of the property and how and when the abandoned tank(s) and the petroleum contamination were found

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### **Non-Responsible Party Eligibility Requirements: Tank Owner/Operator (Operative Tanks)**

To establish Fund reimbursement eligibility as a property owner who bears no responsibility for the release, a tank owner must demonstrate that he or she:

- Is a current owner or operator who has operated in compliance with OPS regulations and can demonstrate that compliance;
- Had no reason to know a release had occurred on the site when it was acquired; and
- Discovered the petroleum contamination on or before December 22, 1988.

The documents, listed below, that are required to support a request for eligibility as a property owner can be found on our website by clicking [here](#).

- Copy of the deed showing when the property was acquired
- Affidavit: Tank Owner/Operator (Operative Tanks) (signed before a notary public)
- Copy of any lease(s) whereby the property was leased to another person

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### Non-Responsible Party Eligibility Requirements: Lender

To establish eligibility for reimbursement from the Fund as a lender who bears no responsibility for the release, a lender must submit completed versions of the following documentation that can be found on our website by clicking [here](#).

- Affidavit: Lender form (signed before a notary public)
- A copy of the original loan, which shows the date of the loan, and any reassignment(s) of that loan
- A copy of the foreclosure document or a copy of the deed
- Evidence that tanks were present on the property at one time (if tanks were not present on the property at the time the property was acquired)
- A brief chronology of events related to the site history, when the lender acquired the property via foreclosure (or a deed in lieu of foreclosure), whether a site assessment was performed before the acquisition and how and when the contamination was discovered
- Appropriate documentation verifying the merger (if the lender acquired the property through a merger)
- A copy of the Certificate of Eligibility issued by OPS (if the original loan was dated after September 30, 1995)
  - The Certificate of Eligibility must have been issued before the lender acquired the property
  - [Eligibility Requirements: Certificate of Eligibility](#)
  - [Certificate of Eligibility – Petroleum Storage Tank Status Sheet](#)

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### Definitions

- **Abandoned tank:** an underground or aboveground petroleum storage tank that the current tank owner or operator or current property owner did not install, has never operated or leased to another for operation, and had no reason to know was present on the site at the time of site acquisition.
- **Operator:** any person in control of, or having responsibility for, the operation of an underground or above ground storage tank.
- **Orphan tank:** an underground storage tank which is: (a) Owned or operated by an unidentified owner as defined in this article; or (b) No longer in use and was not closed in accordance with the procedures required by this article and the property has changed ownership prior to December 22, 1988, and such property is no longer used to dispense fuels.
- **Owner:**
  - In the case of an underground storage tank in use on or after November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances
  - In the case of an underground storage tank in use before November 8, 1984, but no longer in use on or after November 8, 1984, any person who owned such tank immediately before the discontinuation of its use
  - Any person who owns an aboveground storage tank.
- **Property owner:** a person having a legal or equitable interest in real or personal property that is subject to this article.

- Reason to know: includes by personal knowledge or observation, representations by the seller or any other person, environmental assessments, reports, or any other means that there had ever been a release of petroleum product on this site.
- Release: any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a regulated substance from an underground storage tank into groundwater, surface water, or subsurface soils.
- Upgrade: upgrading the existing UST or replacing the existing UST with a new UST or AST that meets all upgrade requirements. Upgrade does not mean closing the existing UST, either in place or by removal, and not replacing it.

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Eligibility to the Petroleum Storage Tank Fund		Applicant Types					Lender	
		Tank Owner/ Operator	Orphaned Tank Owner	Abandoned Tank Owner	Property Owner	Prior to 9/30/95	After 9/30/95	
Eligibility Criteria	\$10,000 deductible	X						
	Current or former tank owner/operator of the site where the release occurred	X						
	Releases discovered on or after 7/1/1989 and expenses incurred on or after 7/1/1989	X						
	Environmental Response Surcharge paid and not in default	X						
	Original claim >\$10,000	X						
	Tanks contain a petroleum product regulated by OPS	X						
	A release must have occurred that is at or above the levels that are required for cleanup by OPS	X	X	X	X	X	X	
	Did not install tanks		X	X	X			
	Never operated tanks		x	X	X			
	Never leased tanks		X	X	X			
	No knowledge of release		X	X	X			
	Current or former owner acquired property prior to 6/3/92				X			
	Contamination originated from on-site PST*				X	X	X	
	Contamination from abandoned on-site tank**		X	X				
	No knowledge of abandoned tank			X				
	Unidentified owner		X					
	Contamination discovered after 12/22/88		X	X	X	X	X	
	Original loan date on or before 9/30/95					X		
No relationship with lendeer					X	X		
Foreclosure					X	X		
Certificate of Eligibility***						X		

\*If the tanks are no longer present on site, the applicant must have evidence of their previous existence.

\*\*Discovery of contamination must occur during the applicant's property ownership.

\*\*\*Certificates of Eligibility are granted to lenders providing loans to tanks owners where the original loan date is after 9/30/95 and they have performed a passing tightness test on the system or where they have performed a site assessment where no contamination is found and submitted the results to OPS.

**NOTES:** This table and summary are provided for informational purposes only. Even if a potential applicant meets all criteria for the eligibility category as indicated by this table, it does not guarantee eligibility to the Fund. Eligibility determinations are made on a case-by-case basis in consideration of all facts related to that particular case.

Eligible applicants in the non-responsible party categories may request State Lead Clean Up.