**74:56:02:01.  Applicability.** This chapter applies to owners and operators of all underground storage tanks containing petroleum except as otherwise provided in this section.

The owners and operators of underground storage tanks are subject to the requirements of this chapter if they are in operation on or after the date for compliance established in 40 C.F.R. § 280.91, as published on October 26, 1988, in the Federal Register.

The state and its political subdivisions and agencies of the federal government whose debts and liabilities are the debts and liabilities of the state or its political subdivisions or of the United States are exempt from the financial responsibility requirements of this chapter.

The requirements of this chapter do not apply to owners or operators of any of the following types of underground storage tank systems:

(1)  Wastewater treatment tanks;

(2)  Sumps;

(3)  Underground storage tank systems containing used oil;

(4)  Underground storage tank systems containing radioactive waste;

(5)  Electrical equipment tanks;

(6)  Hydraulic lift tanks;

(7)  Any underground storage tank with a capacity of 110 gallons or less;

(8)  Any emergency spill or overfill containment system that is expeditiously emptied after use; and

(9)  Any underground storage tank system that contains a de minimis concentration of a regulated substance.

If the owner and operator of an underground storage tank are not the same person, only one person is required to demonstrate financial responsibility; however, both parties are liable in event of noncompliance. Regardless of which party complies, the date set for compliance at a particular facility is determined by the characteristics of the owner as set forth in 40 C.F.R. § 280.91 published in the Federal Register on October 26, 1988.

**Source:** 14 SDR 76, effective November 29, 1987; 15 SDR 108, effective January 26, 1989; transferred from § 74:03:29:01, July 1, 1996.

**General Authority:** SDCL 34A-2-93, 34A-2-99.

**Law Implemented:** SDCL 34A-2-98, 34A-2-99.