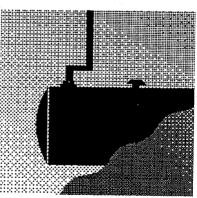
Dollars And Sense SEPA

Financial Responsibility Requirements For **Underground Storage Tanks**

Nonmarketers & Compliance Groups & Liability & Marketers & Financial Tests ♦ Annual Aggregate ♦ Per Occurrence ♦ Nonmarketers ♦ Compliance Groups ♦ Liability ♦ Marketers ♦ Financial Tests ♦ Annual Aggregate ♦ Per Occurrence

♦ Nonmarketers ♦ Compliance Groups ♦ Liability ♦ Marketers ♦ Financial Tests

Annual Aggregate Nonmarketers Liability Financial Tests Per Occurrence � Compliance Groups Marketers Annual Aggregate � Nonmarketers Liability Financial Tests



♦ Per Occurrence ♦ Compliance Groups Marketer Annual Aggregate ♦ Nonmarketers Liability Financial Tests Per Occurrence � Compliance Groups Marketers Annual Aggregate �

Per Occurrence & Nonmarketers & Compliance Groups & Liability & Marketers ♦ Financial Tests ♦ Annual Aggregate ♦ Per Occurrence ♦ Nonmarketers ♦ Compliance Groups & Liability & Marketers & Financial Tests & Annual Aggregate & Per Occurrence & Nonmarketers & Compliance Groups & Liability ♦ Marketers ♦ Financial Tests ♦ Annual Aggregate ♦ Per Occurrence ♦ Nonmarketers & Compliance Groups & Liability & Marketers & Financial Tests

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Why are there financial responsibility requirements?

When Congress amended Subtitle I of the Resource Conservation and Recovery Act in 1986, it directed the U.S. Environmental Protection Agency (EPA) to develop financial responsibility regulations for owners and operators of underground storage tanks (USTs) storing petroleum.

EPA estimates that there are about 1.2 million federally regulated petroleum USTs buried at over 500,000 sites nationwide. These sites are owned by marketers who sell gasoline to the public (such as service stations and convenience stores) and nonmarketers who use USTs solely for their own needs (such as fleet service operators and local governments).

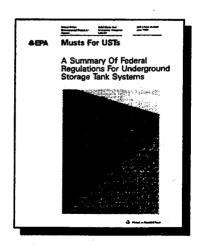
Many of these USTs have released or will release petroleum into the environment through spills, overfills, or failures in the tank and piping system. EPA estimates that the total number of confirmed releases could reach 400,000 in the next several years. After this peak, EPA expects fewer releases as owners of USTs comply with federal and state requirements for new USTs and upgrade older USTs with spill, overfill, and corrosion protection.

Cleaning up these leaks can be costly. Congress wanted owners and operators of USTs to demonstrate that they have the financial resources--through insurance or other means explained below--to pay for the costs of corrective action and third-party liability that can result from leaking USTs.

The financial responsibility requirements are designed to make sure that someone can pay the costs of cleaning up leaks and compensating third-parties for bodily injury and property damage caused by leaking USTs.

If you need an overview of all the federal requirements for USTs, please refer to EPA's free booklet, **Musts For USTs**. Ordering information for **Musts For USTs** and several other publications and videos about USTs appears on pages 13-14.

This booklet briefly describes federal financial responsibility requirements for underground storage tanks (USTs) storing petroleum.



nould your USTs meet these requirements?

ticularly important that someone be prepared to pay cleanup o that cleanup activities can begin as quickly as possible. t fast action at contaminated sites, contamination can spread rease significantly the chance of damaging the environment man health.

ing with the financial responsibility requirements also protects an owner or operator of USTs. If your UST leaks, you may d with high cleanup costs or with lawsuits brought by third You will be able to pay these costs if you have met the il responsibility requirements.

you cannot demonstrate financial responsibility by the ance deadline that applies to your UST facility, you can be ir violations and fined.

eeds to demonstrate financial responsibility?

he owner or the operator of the UST must demonstrate al responsibility, if the owner and operator are different ials or firms. It is the responsibility of the owner and operator de which one will demonstrate financial responsibility.

and state governments and their agencies that own USTs are uired to demonstrate financial responsibility. Local ments, however, must comply with the financial responsibility ments.

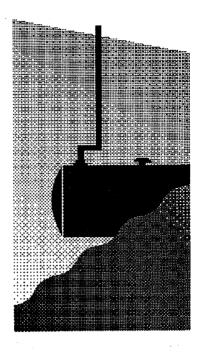
What kinds of USTs need to meet these requirements?

An underground storage tank system (UST) is a tank and any underground piping connected to the tank that has at least 10 percent of its combined volume underground. The federal UST regulations for financial responsibility apply only to underground tanks and piping storing petroleum.

The financial responsibility requirements apply to all USTs holding petroleum, with the following exceptions. These tanks are NOT covered by the financial responsibility requirements:

- Farm and residential tanks of 1,100 gallons or less capacity holding motor fuel used for noncommercial purposes;
- Tanks storing heating oil used on the premises where it is stored;
- Tanks on or above the floor of underground areas, such as basements or tunnels;
- Septic tanks and systems for collecting storm water and wastewater;
- Flow-through process tanks;
- Tanks of 110 gallons or less capacity, and tanks holding a minimal concentration of petroleum; and
- Emergency spill and overfill tanks.

Other storage sites not covered by the federal financial responsibility requirements (such as surface impoundments and field-constructed tanks) are identified in the Code of Federal Regulations, 40 CFR Part 280.



much financial responsibility coverage is required? When u need it?

he amount of financial responsibility coverage you need and te by which you need it are determined by the type of ss you operate, the amount of throughput of your tank, and mber of tanks you have. On the next page you will find a hat displays five groups of UST owners and operators, lance deadlines for each group, and required coverage its.

lly, your financial responsibility amount falls into two types: currence and annual aggregate.

occurrence. "Per occurrence" means the amount of money t must be available to pay the costs from one occurrence of a king UST. If your tank is used in petroleum production, ning or marketing (such as service stations and truck stops), I must be able to demonstrate that you have \$1 million of per currence coverage. The per occurrence amount may be less if Ir tanks are located at a facility NOT engaged in petroleum duction, refining or marketing. In this case, if your facility has nonthly throughput of 10,000 gallons or less, you need 00,000 of per occurrence coverage.

nual aggregate. You must also have coverage for an annual pregate amount. The annual aggregate amount is the total ount of financial responsibility that you must have to cover eaks that might occur in one year. The amount of aggregate erage that you need depends on the number of tanks that you n or operate: \$1 million annual aggregate for 100 or fewer ks; \$2 million annual aggregate for more than 100 tanks.

Financial Responsibility Requirements

Group Of UST Owners And Operators	Compliance Deadline	Per Occurrence Coverage	Aggregate Coverage
GROUP 1: Petroleum marketers with 1,000 or more tanks OR Nonmarketers with net worth of \$20 million or more (for nonmarketers, the "per occurrence" amount is the same as Group 4-B below)	January 1989	\$1 million	\$1 million if you have
GROUP 2: Petroleum marketers with 100-999 tanks	October 1989		100 or fewer tanks
GROUP 3: Petroleum marketers with 13-99 tanks	April 1991		OR
GROUP 4-A: Petroleum marketers with 1-12 tanks	December 1993		\$2 million if you have more than 100 tanks
GROUP 4-B: Nonmarketers with net worth of less than \$20 million	December 1993	\$500,000 if throughput is 10,000 gallons monthly or less	ughput is O gallons
GROUP 4-C: Local governments (including Indian tribes not part of Group 5)	February 1994	OR \$1 million if throughput is more than 10,000 gallons monthly	
GROUP 5: Indian tribes owning USTs on Indian lands (USTs must be in compliance with UST technical requirements)	December 1998		

can you demonstrate financial responsibility?

are several options for demonstrating financial responsibility option is described fully in the Code of Federal Regulations, R Part 280):

e state financial assurance funds. Your state may pay for ne cleanup and third-party liability costs (see page 7).

tain insurance coverage. Insurance may be available from a vate insurer or a risk retention group (see page 7).

tain a guarantee. You may secure a guarantee for the verage amount from another firm with whom you have a stantial business relationship. The provider of the guarantee to pass one of the financial tests described on page 9.

tain a surety bond. A surety bond is a guarantee by a surety npany that it will meet your financial responsibility obligations.

tain a letter of credit. A letter of credit is a contract involving ı, an issuer (usually a bank), and a third party (such as the plementing agency) that obligates the issuer to help you nonstrate your financial responsibility.

is a financial test. If your firm has a tangible net worth of at st \$10 million, you can prove your financial responsibility by sing one of the two financial tests described on page 9.

up a trust fund. You may set up a fully-funded trust fund ninistered by a third party to demonstrate financial ponsibility.

enter state methods. You may also use any additional thods of coverage approved by your state.

jovernments have four additional compliance methods tailored r special characteristics: a bond rating test, a financial test, a tee, and a dedicated fund (all fully described in 40 CFR Part

What about state financial assurance funds?

Most states have established programs that can help pay for cleanup and third-party liability costs resulting from leaking petroleum USTs. Owners and operators of USTs may use these state financial assurance funds to demonstrate financial responsibility.

Many state funds, however, pay only part of the cleanup costs or require that you pay a deductible amount. Some state funds do not pay for third-party liability costs. State assurance funds often have eligibility requirements, such as proof that the UST facility is in compliance with requirements for leak detection and recordkeeping.

You should contact your state agency to determine if the state has a fund that you may use to demonstrate financial responsibility. Find out what the state will pay for and what additional amount of financial responsibility, if any, you must obtain. See the list of state UST/LUST contacts starting on page 15. (LUST means "leaking underground storage tanks.")

What about insurance coverage?

To make sure your insurance policy meets the financial responsibility requirements, have your insurer fill out one of the two following forms. If your UST insurance coverage is an expansion of a policy you already have, your insurer should give you an "Endorsement" document that completes and reproduces the model form shown on page 10. If you get a new policy, your insurer should give you a "Certificate of Insurance" document that completes and reproduces the model form shown on page 11. Keep the completed form in your records, as explained on page 8.

You should be aware that insurers may require you to meet certain conditions for coverage. For example, your insurer may require you to test your tank for tightness or make improvements in your tank system, such as adding corrosion protection.

You may also be able to get insurance coverage through a risk retention group. A risk retention group is an insurance company formed by businesses or individuals with similar risks to provide insurance coverage for those risks.

If you don't know how to reach your state agency, see the list of state UST/LUST contacts starting on page 15.

If you belong to a trade association, it may be able to provide you with information about insurers and risk retention groups that cover USTs.

happens if your coverage is cancelled?

nancial responsibility method must specify that the provider ancel your coverage only after sending you advance written Insurance, risk retention group, and state fund coverage can celled only 60 days after you receive the cancellation notice. ntees, surety bonds, and letters of credit can be cancelled only ays after you receive the cancellation notice. You must find ment coverage within 60 days after you receive the notice of lation. If you cannot get replacement coverage, you must your implementing agency.

records must you keep or report to others?

ust keep at your UST site or your place of business the ng records of financial responsibility coverage:

urrent "Certification of Financial Responsibility" (see page 12 a model of this form that you must complete and reproduce);

, additional documentation that shows your financial consibility method is valid and provides details on the thod's coverage, such as signed copies of official letters, cies, and state fund agreements.

nese records until your UST site is properly closed.

g clear records makes good business sense. If asked by UST ors or regulatory officials to demonstrate your financial sibility, you can use these records to demonstrate quickly empliance with the financial responsibility requirements.

states require you to file copies of your financial responsibility s with the state agency, so check with your state to see what ed to do. You do not need to report financial responsibility to the federal EPA unless you have been requested to do so.

Two Financial Tests

Test 1

- Your firm must have a tangible net worth of at least \$10 million; and
- Your firm must have a tangible net worth of a least 10 times the amount of aggregate coverage that you are required to demonstrate plus any other liability coverage for which your firm is using the test to demonstrate financial responsibility to EPA; and
- Your firm must file the firm's annual financial statements with the Securities and Exchange Commission (SEC), or annually report the firm's tangible net worth to Dun and Bradstreet and receive a rating of 4A or 5A. Utilities may file financial statements with the Energy Information Administration, or the Rural Electrification Administration instead of the SEC; and
- Your firm must have audited financial statements that do not include an adverse auditor's opinion or disclaimer of opinion.

Test 2

- Your firm must have a tangible net worth of at least \$10 million; and
- Your firm must have a tangible net worth of at least 6 times the amount of aggregate coverage that you are required to demonstrate; and
- Have U.S. assets that are at least 90 percent of total assets or at least 6 times the required aggregate amount; and
- Have net working capital at least 6 times the required aggregate amount, or a bond rating AAA, AA, A, or BBB from Standard and Poor's, or Aaa, Aa, A, or Baa from Moody's; and
- Your firm must have audited financial statements that do not include an adverse auditor's opinion or disclaimer of opinion.

Name: [name of each covered location]

Address: [address of each covered location]

Policy Number:

Period of Coverage [current policy period]:

Name of [Insurer or Risk Retention Group]:

Address of [Insurer or Risk Retention Group]:

Name of Insured:

Address of Insured:

1. [Name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 CFR 280.22, or the corresponding state requirement, and the name and address of the facility.]

for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "per occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], 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 [date].

- 2. The ["Insurer" or "Group"] 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" or "Group"] of its obligations under the policy to which this certificate applies.
- b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third party,

with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 40 CFR 280.95-280.102.

- c. Whenever requested by [a Director of an Implementing Agency], the ["Insurer" or "Group"] agrees to furnish to [the Director] a signed duplicate original of the policy and all endorsements.
- d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for non-payment of premium or misrepresentation of 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. Cancellation for non-renewal of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such written notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or nonrenewal 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 arises 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 periods 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)(1) and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states".]

[Signature of authorized representative of Insurer or Risk Retention Group]

[Printed name of person signing]

[Title of person signing], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

ocation

eriod]:

iroup]:

Group]:

he policy to which the bility insurance storage tank(s):

cility and the name(s) here the tanks are it is used to assure reach tank covered by ation number provided it to 40 CFR 280.22, ant, and the name and

and/or "compensating perty damage caused es" or "nonsudden elease"; in accordance ility, exclusions, olicy; if coverage is ons, indicate the type or location] arising from ank(s) identified above.

dollar amount of the gate" limits of the mount of coverage is age or for different ons, indicate the f coverage and/or for location], exclusive of loct to a separate limit rovided under [policy | policy is [date].

pect to such terms and conditions of my provisions rough (e) of this conform with

insured shall not relieve gations under the policy ned.

- b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 40 CFR 280.95-280.102.
- c. Whenever requested by [a Director of an Implementing Agency], the ["Insurer" or "Group"] agrees to furnish to [the Director] a signed duplicate original of the policy and all endorsements.
- d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], 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. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such written notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of the cancellation or non-renewal of the policy except where the new or renewed policy has the some 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)(1) and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states".]

[Signature of authorized representative of Insurer or Risk Retention Group]

[Printed name of person signing]

[Title of person signing], Authorized Representative of [name of Insurer of Risk Retention Group]

[Address of Representative]

tifies that it is in nts of Subpart H of 40

nism(s) used to pility under Subpart H of lows:

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334 271-7834

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Arizona Dept. of Env.
Quality
3033 N. Central Ave.
Phoenix, AZ 85012
phone: 602 207-4324

Arkansas Dept. of Pollution Control & Ecology Regulated Storage Tank Division 8001 National Dr. Little Rock, AR 72209 phone: 501 570-2801

California State Water Resources Control Board Div. of Clean Water Program Box 944212 Sacramento, CA 94244-2120 phone: 916 227-4313

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Hazardous Materials &
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Connecticut Dept. of Env. Protection UST Program State Office Bldg. 79 Em Street Hartford, CT 06106 phone: 203 424-3374

DC Env. Regulatory
Administration
Pesticides, Hazardous
Waste & UST Div.
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Washington, D.C. 20020
phone: 202 645-6080

Delaware Dept. of Natural Resources & Env. Control UST Branch 715 Grantham Lane New Castle, DE 19720 phone: 302 323-4588

Florida Dept. of Env.
Regulation
Tank Section
Twin Towers Office
Bldg., Rm. 403
2600 Blair Stone Road
Tallahassee, FL
32399-2400
phone: 904 488-3935

Georgia Dept. of Natural Resources UST Mgt. Program 4244 Intl. Parkway, Suite 100 Atlanta, GA 30354 phone: 404 362-2687

Hawaii Dept. of Health Solid and Hazardous Waste Branch 919 Ala Moana Blvd., Suite 212 Honolulu, HI 96814 phone: 808 586-4226 Idaho Dept. of Health & Welfare
Div. of Env. Quality
1410 North Hilton
Boise, ID 83706
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Illinois Office of State Fire Marshall Div. of Petroleum & Chem. Safety 1035 Stevenson Dr. Springfield, IL 62703 phone: 217 785-5878

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62794-9276
phone: 217 782-6760

Indiana Dept. of Env. Mgt. Office of Env. Response Box 7015 Indianapolis, IN 46206 phone: 317 233-6418

lowa Dept. of Natural Resources UST Section Wallace State Office Bldg. 900 East Grand Des Moines, IA 50319 phone: 515 281-8135

Kansas Dept. of Health & Env.
Bureau of Env.
Remediation
Storage Tank Section
Forbes Field, Bldg. 740
Topeka, KS 66620
phone: 913 296-1678

Kentucky Div. of Waste Mgt. UST Branch 14 Reilly Road Frankfort, KY 40601 phone: 502 564-6716 Louisiana Dept. of Env. Quality UST Division Box 82178 Baton Rouge, LA 70810 phone: 504 765-0243

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Augusta, ME 04333
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Maryland Dept. of Env.
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Cleanup
One Winter St.
Boston, MA 02108
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Michigan Dept. of Natural Resources UST Division Box 30157 Lansing, MI 48909 UST phone: 517 373-8168 MUSTFA (state fund): 517 373-6247

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Tanks and Spills Section
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phone: 612 297-8609

w Hampshire Dept. of v. Services I Compliance Section oundwater Protection 3ureau x 95 ncord, NH 03301 one: 603 271-3644

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 Inne: 505 827-0188

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Vatural Resources
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upt. of Health and Consolidated Lab.
x 5520 smarck, ND 1502-5520 one: 701 328-5166

io Dept. of Commerce reau of UST Regulations 195 East Main St. x 687 ynoldsburg, OH 43068 one: 614 752-7938 Oklahoma Corporation Commission Fuel Storage Division Box 52000-2000 Oklahoma City, OK 73152-2000 UST phone: 405 521-3107 LUST phone: 405 521-6575

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phone: 503 229-5774

[LUST contact]

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Quality
UST Cleanup Program
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9th Floor
Portland, OR 97204
phone: 503 229-6642

Pennsylvania Dept. of Env. Resources Storage Tank Program Box 8762 Harrisburg, PA 17101-2301 phone: 717 772-5599

Rhode Island Dept. of Env. Mgt. UST Section 291 Promenade St. Providence, RI 02908 phone: 401 277-2234

South Carolina Dept. of Health and Env.Control Groundwater Protection Division 2600 Bull St. Columbia, SC 29201 UST phone: 803 734-5335 LUST phone: 803 734-5331 South Dakota Dept. of Env. & Nat. Resources UST Program 523 East Capitol Pierre, SD 57501 phone: 605 773-3296

Tennessee Dept. of Env. & Conservation
Div. of USTs
4th Floor, L&C Tower
401 Church St.
Nashville, TN
37243-1541
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Texas Natural Resources
Conservation Comm.
Petroleum Storage
Tank Div.
Box 13087
Austin, TX 78711-3087
phone: 512 239-2000

Utah Dept. of Env. Quality
Div. of Env. Response
and Remediation
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Salt Lake City, UT 84116
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Vermont Dept. of Natural Resources UST Program 103 South Main St., West Bldg. Waterbury, VT 05676 phone: 802 244-8702

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Washington Dept. of Ecology Box 47655 Olympia, WA 98504-7655 UST phone: 206 407-7211 LUST phone: 206 407-7218

West Virginia Div. of Env.
Protection
Office of Waste Mgt.
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Wisconsin Dept. of
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Wisconsin Dept. of
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Bureau of Solid and
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Wyoming Dept. of Env.
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U.S. TERRITORIES

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Commonwealth of Northern Mariana Islands Div. of Env. Quality Box 1304 Dr. Torres Hospital Saipan, MP 96950 phone: 607 234-6984

Guam Env. Protection Agency IT&E Harmon Plaza, Complex Unit D-107 130 Rojas St. Harmon, Guam 96911 phone: 671 646-8863

Puerto Rico Env. Quality Board Box 11488 Commonwealth of Puerto Rico Santurce, Puerto Rico 00910 phone: 809 767-8109

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