



## Underground Storage Tanks and Federal Real Property Disposal

### What is an underground storage tank?

An underground storage tank (UST) is defined by the U.S. Environmental Protection Agency (EPA) as: "...a tank and any underground piping connected to the tank that has at least 10 percent of its combined volume underground." Federal UST regulations apply only to underground tanks and piping storing either *petroleum* or *certain hazardous substances*.

### What agencies are responsible for regulating USTs?

In 1984, Congress added Subtitle I to the *Resource Conservation and Recovery Act (RCRA)*, which directed EPA to develop a comprehensive regulatory program for USTs. EPA's Office of Solid Waste and Emergency Response (OSWER) administers the Federal UST Program. However, EPA has issued State Program Approval (SPA) regulations that permit state regulatory agencies to operate their own UST programs in lieu of the Federal program. As a result, most states now have the lead role in managing UST programs.

EPA Regions coordinate the SPA process for states and territories within their jurisdiction. As of 2017, 38 states, the District of Columbia and the commonwealth of Puerto Rico have EPA-approved UST programs. Additionally, all 50 states have UST programs that meet at least some of EPA's monitoring and enforcement standards. State standards must be no less stringent than Federal standards to obtain SPA status, and some states' programs are significantly more restrictive. Once a state UST program has been approved by EPA, the state assumes the lead role in UST program enforcement. As a practical matter, nearly all states have the lead role for implementing UST programs as a result of SPA status or executed cooperative agreements with EPA.

### What are the objectives and requirements of the Federal UST program?

The EPA's UST regulations are divided into three components: (1) technical requirements, (2) financial responsibility requirements, and (3) SPA objectives. The technical requirements are designed to reduce the risk of releases from USTs, to detect spills and releases when they occur, and to promptly clean them up. The financial responsibility regulations are intended to ensure a UST owner or operator will have the resources to clean up releases and compensate third parties. SPA objectives were described in the previous question.

### How have EPA and state UST programs affected UST management nationwide?

According to EPA, the number of Federally and state-regulated USTs has dropped from over 2 million in the mid-1980s to around 558,000 in 2017. This is attributable to the December 1998 deadline that all Federally-regulated USTs be removed, closed, or upgraded to meet applicable spill, overfill, and corrosion protection standards. EPA also requires UST owners and operators to provide detailed information on all regulated USTs on EPA Form 7530-1, "Notification for Underground Storage Tanks."

Consequently, UST tracking and compliance data is much better now than it was in the past. Due diligence has shifted from verifying the existence and location of USTs to determining on-going management responsibilities for USTs identified in owners' records or in EPA and State databases. In addition, in July 2015 EPA issued amendments to the UST regulations at 40 CFR Parts 280 and 281. These amendments increase the emphasis on UST equipment operation and maintenance (O&M) and help implement the UST portions (Sections 1521 – 1533) of the *Energy Policy Act of 2005*.

### Are Federal agencies subject to Federal and state UST programs?

Yes, Federal agencies are responsible for complying with EPA and state UST program requirements at all Federal facilities. To emphasize this, Congress included a provision in the *Energy Policy Act of 2005* requiring "each department, agency, and instrumentality of the...Federal Government" to comply with "Federal, State, interState, and local requirements... respecting underground storage tanks... including the payment of reasonable service charges... and all civil and administrative penalties and fines..."

### What types of tanks are exempt from Federal UST regulations?

The following types of tanks are exempt from Federal UST regulations:

- Farm and residential tanks of 1,100 gallons or less capacity storing motor fuel used for non-commercial 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 stormwater and wastewater;
- Flow-through process tanks;
- Tanks of 110 gallons or less capacity; and
- Emergency spill and overflow tanks.

However, individual state or local authorities may include tanks such as these Federally-exempt tanks in their regulations. It is therefore prudent to verify the scope of the given state or local UST program.

### What special requirements do hazardous substance USTs have to meet?

While the July 2015 UST regulations now require secondary containment for *all* regulated USTs, there remain unique requirements for those UST containing hazardous substances. Owners and operators of hazardous substance-

containing USTs must provide containment that meets specific requirements set forth in 40 CFR 280.42; monitoring must be conducted at least every 30 days.

### What UST information should Landholding Agencies provide when they submit a Report of Excess (ROE) to GSA?

Landholding Agencies must inform GSA of any USTs located on excess property that are subject to Federal UST regulations. GSA's Excess Real Property Checklist specifically requests information about USTs on the property being reported excess. The Excess Real Property Checklist can be found in the Federal Agency Resources Section at <https://disposal.gsa.gov/FAA>.

The following information should be provided for all USTs on excess property:

- Tank status (in use, temporarily closed, permanently closed)
- Date of installation
- Estimated total capacity
- Tank construction material
- Piping material
- Piping type
- Substance currently stored in tank
- Type(s) of release protection system(s)
- Type(s) of spill and overflow protection
- Tank closure status and information

EPA Form 7530-1 (<https://www.epa.gov/ust/notification-forms-underground-storage-tanks>) provides a useful format for sharing the above information on USTs.

Landholding Agencies can utilize this form when reporting properties with closed or active USTs excess to GSA.

Landholding Agencies should also certify that their USTs are in compliance with EPA's December 22, 1998 spill, overfill, corrosion and leak detection requirements; with all current EPA, State, and local requirements pursuant to the *Energy Policy Act of 2005*; and with the O&M, operator training, and other requirements at 40 CFR 280 and 281.



Landholding Agencies should separately identify any USTs containing hazardous substances and certify that those tanks meet appropriate design and construction standards.

**What is GSA’s responsibility as the disposal agency for obtaining and revealing UST information?**

GSA is responsible for requesting UST information as described above from any Landholding Agency that is reporting a property excess. If a Landholding Agency indicates that state or Federally-regulated USTs are located on excess property, GSA discloses this information to potential grantees. GSA also provides summary information to potential new owners based

on the EPA Form 7530-1 and/or other information provided by the Landholding Agency. For those tanks still in commission, the Landholding Agency and the grantee (the new owner of the tanks), will need to fill out and sign EPA form 6200-10, Notification of Ownership Change for Underground Storage Tanks, on the date of the conveyance of the property (see 40 CFR 280, Appendix II, for the Notification of Ownership for Underground Storage Tanks form).

**Where can I learn more about EPA and State UST programs?**

More information on EPA and State UST programs can be found on the EPA’s Web site: <http://www.epa.gov/ust>

Major UST Laws and Regulations	
Law	Description
<ul style="list-style-type: none"> <li>40 CFR Part 280</li> <li>40 CFR Part 281</li> <li>40 CFR Parts 282.50-282.105</li> </ul>	<ul style="list-style-type: none"> <li>40 CFR PART 280 provides technical standards and corrective action requirements for owners and operators of USTs.</li> <li>40 CFR Part 281 provides information on the purpose, general requirement and scope of State UST programs.</li> <li>40 CFR 282.50-282.150 provides a list of approved UST State programs.</li> </ul>
<ul style="list-style-type: none"> <li>Solid Waste Disposal Act</li> </ul>	<ul style="list-style-type: none"> <li>The Solid Waste Disposal Act of 1965 outlined environmentally responsible methods for getting rid of solid waste at the household, municipal, commercial and industrial levels.</li> <li>Subchapter IX of the Solid Waste Disposal Act addresses the regulation of USTs. This law incorporates amendments to Subtitle I of the Solid Waste Disposal Act and gives EPA the authority to regulate USTs.</li> </ul>
<ul style="list-style-type: none"> <li>LUST Provision of the American Recovery and Reinvestment Act (ARRA) of 2009</li> </ul>	<ul style="list-style-type: none"> <li>This provision to the ARRA appropriated \$200 million to assess and clean up leaks from underground storage tanks. The vast majority of the money is allocated to States and territories in the form of assistance agreements to address shovel-ready sites within their jurisdictions. For more information please visit: <a href="http://www.epa.gov/oust/eparecovery/">http://www.epa.gov/oust/eparecovery/</a></li> </ul>
<ul style="list-style-type: none"> <li>Federal Energy Policy Act of 2005</li> </ul>	<ul style="list-style-type: none"> <li>This law significantly affects Federal and state underground storage tank programs, will require major changes to the programs, and is aimed at reducing underground storage tank releases to our environment.</li> <li>The UST provisions of the Energy Policy Act focus on preventing releases. Among other things, it expands eligible uses of the Leaking Underground Storage Tank (LUST) Trust Fund, and includes provisions regarding inspections, operator training, delivery prohibition, secondary containment and financial responsibility, and cleanup of releases that contain oxygenated fuel additives.</li> </ul>