

Draft Deliberative Document – Do Not Cite or Quote —January 18, 2007

---

**Grant Guidelines To States For Implementing  
The Provision Of The Energy Policy Act Of 2005  
Requiring States To Report On The Compliance Of  
Government Underground Storage Tanks**

U.S. Environmental Protection Agency  
Office Of Underground Storage Tanks  
Washington, D.C. 20460  
*[www.epa.gov/oust](http://www.epa.gov/oust)*

EPA 510-D-07-001  
January 2007

Draft Deliberative Document – Do Not Cite or Quote —January 18, 2007

---

## Contents

### Overview Of The Government Underground Storage Tanks

<b>Compliance Report Grant Guidelines</b> .....	1
Why Is EPA Issuing These Guidelines? .....	1
When Do These Guidelines Take Effect?.....	1
To Whom Do These Guidelines Apply?.....	1

### Requirements For The Government Underground Storage Tanks

<b>Compliance Report</b> .....	2
What Must A State Compliance Report On Government Underground Storage Tanks Include? .....	2
What Definitions Are Used In These Guidelines?.....	3
When Must A State Submit Its Compliance Report On Government Underground Storage Tanks? .....	4
How Will States Demonstrate Compliance With These Guidelines? .....	4
How Must A State Ensure The Quality Of Its Government Underground Storage Tanks Report Data? .....	4
How Will EPA Enforce States' Compliance With The Requirements In These Guidelines? .....	4

### For More Information On The Government Underground Storage

<b>Tanks Compliance Report Grant Guidelines</b> .....	5
Background About The Energy Policy Act Of 2005 .....	5

### Appendix A –

Sample State Compliance Report On Government Underground Storage Tanks (USTs) .....	A-1
Description Of Fields On The Sample State Compliance Report On Government Underground Storage Tanks (USTs) .....	A-2

Draft Deliberative Document – Do Not Cite or Quote —January 18, 2007

---

## **Overview Of The Government Underground Storage Tanks Compliance Report Grant Guidelines**

### ***Why Is EPA Issuing These Guidelines?***

The U.S. Environmental Protection Agency (EPA), in consultation with states, developed these grant guidelines to implement the provision in Section 9003(j)<sup>1</sup> of the Solid Waste Disposal Act (SWDA), enacted by the Underground Storage Tank Compliance Act, part of the Energy Policy Act of 2005 [Public Law 109-58] signed by President Bush on August 8, 2005.

Subsection (b) of Section 1526 of the Energy Policy Act amends Subtitle I of the Solid Waste Disposal Act by requiring states that receive Subtitle I funding to report on the compliance status of their government-owned and/or -operated underground storage tanks (UST). EPA must require each state that receives funding under Subtitle I to submit a state compliance report on government underground storage tanks no later than two years after the enactment of the Act. States must submit their compliance reports to the EPA Administrator. The law specifies that the report:

1. List the location and owner of each underground storage tank that is regulated under Subtitle I and owned or operated by the federal, state or local government in the state that, as of the date of submission of the report, is not in compliance with Section 9003;
2. Specify the date of the last inspection; and
3. Describe the actions that have been and will be taken to ensure compliance of the government underground storage tank listed.

### ***When Do These Guidelines Take Effect?***

States must submit reports to EPA on or before August 8, 2007.

### ***To Whom Do These Guidelines Apply?***

Any state receiving Subtitle I funding must submit to EPA a state compliance report on government underground storage tanks.

---

<sup>1</sup> This provision, originally identified as 9003(i) in the Energy Policy Act, was changed to 9003(j) in Public Law 109-168, January 10, 2006.

Draft Deliberative Document – Do Not Cite or Quote —January 18, 2007

---

## Requirements For The Government Underground Storage Tanks Compliance Report

### ***What Must A State Compliance Report On Government Underground Storage Tanks Include?***

A state compliance report on government underground storage tanks must provide the following information for each *noncompliant* federal-, state- and local-government underground storage tank in its jurisdiction:

1. The location and owner of each government underground storage tank that, as of the date of submission of the report,<sup>2</sup> is not in compliance with 40 CFR Part 280 or with state requirements that are part of a state underground storage tank program EPA has approved under the state program approval (SPA) procedures. At a minimum, states must include the owner's name; UST identification number(s); facility address(es); city, county, state, and zip code; and violation citation (i.e., federal and/or state with program approval citation). The compliance determination should be based on the following areas<sup>3</sup>:
  - Notification
  - Corrosion protection
    - Tanks and piping have appropriate corrosion protection
    - Documentation available, including testing, inspections, and other records
  - Overfill prevention
  - Spill prevention in place and operational
  - Tank and piping release detection
    - Appropriate method and appropriate equipment or procedures in place
    - Documentation of proper monitoring and testing
  - Tanks and piping repairs
  - Secondary containment where appropriate
  - Financial responsibility
  - Temporary closure

---

<sup>2</sup> In order to provide each state agency adequate time to meet the August 8, 2007, reporting submittal deadline, each state should base its noncompliance determination cutoff on the date that its report was submitted for final review.

<sup>3</sup> EPA will make the following list consistent with the final inspection grant guidelines that are currently under review.

Draft Deliberative Document – Do Not Cite or Quote —January 18, 2007

---

If a state is reporting compliance based on a determination pursuant to requirements that are more stringent than Subtitle I, the state should identify and may list its more stringent requirements.

2. The date of the last on-site inspection conducted for each noncompliant underground storage tank identified.
3. The actions that have been and will be taken to ensure the compliance of each noncompliant underground storage tank identified.

See Appendix A for a sample report.

### ***What Definitions Are Used In These Guidelines?***

**On-site inspection** is an inspection that is:

- On-site;
- Conducted by a state, local (when contracted or delegated by a state), EPA, or certified third-party inspector; and
- Sufficient to determine compliance with federal underground storage tank requirements in Subtitle I or state requirements that are part of a state underground storage tank program EPA has approved under the state program approval (SPA) procedures in 40 CFR Part 281.

**Local government** shall have the meaning given by applicable state law.

**Operator** is defined in 40 CFR 280.12 ([http://www.epa.gov/oust/fedlaws/280\\_a.pdf](http://www.epa.gov/oust/fedlaws/280_a.pdf)).

**Owner** is defined in 40 CFR 280.12 ([http://www.epa.gov/oust/fedlaws/280\\_a.pdf](http://www.epa.gov/oust/fedlaws/280_a.pdf)).

**Underground Storage Tank (UST)** has the same meaning as defined in 40 CFR 280.12, except for those tanks identified in 40 CFR 280.10(b) and 280.10(c) as excluded or deferred ([http://www.epa.gov/oust/fedlaws/280\\_a.pdf](http://www.epa.gov/oust/fedlaws/280_a.pdf)).

Draft Deliberative Document – Do Not Cite or Quote —January 18, 2007

---

### ***When Must A State Submit Its Compliance Report On Government Underground Storage Tanks?***

Each state that receives Subtitle I funding must submit its government underground storage tanks compliance report to the EPA Administrator<sup>4</sup> on or before August 8, 2007.

### ***How Will States Demonstrate Compliance With These Guidelines?***

After August 8, 2007, and before receiving future grant funding, each state must provide one of the following to its EPA Regional Office:

1. If a state has submitted its compliance report to the Administrator, nothing more needs to be submitted, or
2. For a state that has not yet submitted its compliance report, a document that describes the date by which the state expects to meet the requirements.

### ***How Must A State Ensure The Quality Of Its Government Underground Storage Tanks Report Data?***

To the maximum extent practicable, states must provide accurate and complete data to EPA. States must use quality assurance practices that will produce data of quality adequate to meet project objectives and minimize reporting of inaccurate data.

### ***How Will EPA Enforce States' Compliance With The Requirements In These Guidelines?***

As a matter of law, each state that receives funding under Subtitle I, which would include a Leaking Underground Storage Tank (LUST) Cooperative Agreement, must comply with certain underground storage tank requirements of Subtitle I. EPA anticipates State and Tribal Assistance Grants (STAG) funds will be available for inspection and other UST compliance activities. EPA will also condition STAG grants with compliance with these guidelines. Absent a compelling reason to the contrary, EPA expects to address noncompliance with these STAG grant conditions by utilizing EPA's grant enforcement authorities under 40 CFR Part 31.43, as necessary and appropriate.

---

<sup>4</sup> The mailing address for the EPA Administrator is: Administrator, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, MC 0001, Washington, DC 20460-0001, Re: State Government UST Compliance Report Submittal.

Draft Deliberative Document – Do Not Cite or Quote —January 18, 2007

---

## **For More Information On The Government Underground Storage Tanks Compliance Report Grant Guidelines**

Visit the EPA Office of Underground Storage Tanks web site at [www.epa.gov/oust](http://www.epa.gov/oust) or call 703-603-9900.

### **Background About The Energy Policy Act Of 2005**

On August 8, 2005, President Bush signed the Energy Policy Act of 2005. Title XV, Subtitle B of this act (entitled the Underground Storage Tank Compliance Act) contains amendments to Subtitle I of the Solid Waste Disposal Act – the original legislation that created the underground storage tank (UST) program. These amendments significantly affect federal and state underground storage tank programs, will require major changes to the programs, and are aimed at reducing underground storage tank releases to our environment.

The amendments focus on preventing releases. Among other things, they expand eligible uses of the Leaking Underground Storage Tank (LUST) Trust Fund and include provisions regarding inspections, operator training, delivery prohibition, secondary containment and financial responsibility, and cleanup of releases that contain oxygenated fuel additives.

Some of these provisions require implementation by August 2006; others will require implementation in subsequent years. To implement the new law, EPA and states will work closely with tribes, other federal agencies, tank owners and operators, and other stakeholders to bring about the mandated changes affecting underground storage tank facilities.

To see the full text of this new legislation and for more information about EPA's work to implement the underground storage tank provisions of the law, see: [http://www.epa.gov/oust/fedlaws/nrg05\\_01.htm](http://www.epa.gov/oust/fedlaws/nrg05_01.htm)

Draft Deliberative Document – Do Not Cite or Quote —January 18, 2007

---

**Appendix A -  
Sample State Compliance Report on  
Government Underground Storage Tanks (USTs)**

**Noncompliant Federal-Government USTs**

UST ID#	Owner Name	Facility Address	City	County	State	Zip Code	Violation Citation (Federal or State with Program Approval)	Date of Last On-site Inspection	Action(s) to Ensure Compliance

**Noncompliant State-Government USTs**

UST ID#	Owner Name	Facility Address	City	County	State	Zip Code	Violation Citation (Federal or State with Program Approval)	Date of Last On-site Inspection	Action(s) to Ensure Compliance

**Noncompliant Local-Government USTs**

UST ID#	Owner Name	Facility Address	City	County	State	Zip Code	Violation Citation (Federal or State with Program Approval)	Date of Last On-site Inspection	Action(s) to Ensure Compliance

Draft Deliberative Document – Do Not Cite or Quote —January 18, 2007

---

**Description Of Fields On The Sample State Compliance Report On  
Government Underground Storage Tanks (USTs)**

- **UST ID Number (#)** – This is the unique identification number assigned to this underground storage tank in the state's underground storage tank notification system and/or by its underground storage tank database.
- **Owner Name** – This is the name of the underground storage tank facility and owner.
- **Facility Address** – This is the location of the facility where the noncompliant underground storage tank(s) are located. At a minimum, the location should be an address (address, county, city, state and zip code). In addition, states may also provide a visual depiction (such as a map) or location coordinates (such as latitude/longitude).
- **Violation Citation (Federal or State with Program Approval)** – This is the citation for the violation(s) that prompted the noncompliance determination.
- **Date of Last On-site Inspection** – This is the date of the most recent on-site inspection for the underground storage tank or facility.
- **Action(s) to Ensure Compliance** – This field provides a means for a state to denote the actions that have and will be taken to ensure the compliance of a noncompliant government underground storage tank identified in its report. As an example, states may use the numbered actions below when completing the report:
  - 1 **Formal action** (e.g., red tag and other major penalty actions taken),
  - 2 **Informal action** (e.g., notice to comply/violations issued),
  - 3 **Negotiating settlement** (e.g., settlement deliberations are in progress),
  - 4 **Undetermined**, or
  - 5 **Other** (please describe).