



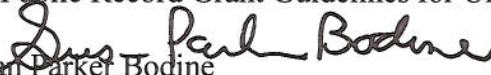
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 22 2007

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

MEMORANDUM

Subject: Issuance of Financial Responsibility and Installer Certification Grant Guidelines and Public Record Grant Guidelines for Underground Storage Tank Programs

From: 
Susan Parker Bodine
Assistant Administrator

To: EPA Regional Administrators

Today I issued two final documents that implement key provisions of the underground storage tank amendments of the Energy Policy Act of 2005: the financial responsibility and installer certification grant guidelines and the public record grant guidelines. These documents are attached and available for states and other interested parties on EPA's Office of Underground Storage Tanks (OUST) web site at: http://www.epa.gov/oust/fedlaws/epact_05.htm#Final. Additionally, I have asked Cliff Rothenstein, Director of the Office of Underground Storage Tanks, to send e-mail notification of the Agency's actions to states and other stakeholders. In the near future, EPA will also publish two *Federal Register* notices, one for each of these guidelines.

Background

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 of 2005, amends Subtitle I of the Solid Waste Disposal Act. This is the first federal legislative change for the underground storage tank (UST) program since its inception over 20 years ago. The new law significantly affects federal, state, and tribal underground storage tank programs and is aimed at further reducing underground storage tank releases to our environment.

Soon after President Bush signed the Energy Policy Act, EPA formed several workgroups to help implement many of the provisions in the new law. Over the past year, EPA worked closely with our state partners to develop the financial responsibility and installer certification grant guidelines and public record grant guidelines. I sincerely appreciate the efforts that your regional underground storage tank managers and staff have provided. I would also like to thank states, all of the stakeholders we consulted with, and those who provided public comments for their participation and significant input in this process.

Financial Responsibility And Installer Certification Grant Guidelines

The financial responsibility and installer certification grant guidelines are established in accordance with Section 1530 of the Energy Policy Act, which requires additional measures to protect groundwater from contamination by USTs through use of either evidence of financial responsibility and installer certification *or* secondary containment. The section requires states receiving federal funds under Subtitle I of the Solid Waste Disposal Act to implement the financial responsibility and installer certification (or secondary containment) requirements described in the guidelines by February 8, 2007. EPA regional tank offices will need to incorporate the guidelines into their future grant agreements with states. (Please note that section 1530 of the Energy Policy Act gives states the option of implementing either financial responsibility and installer certification requirements *or* secondary containment requirements. Secondary containment requires that new or replaced USTs within 1,000 feet of an existing community water system or existing potable drinking water well must be secondarily-contained and monitored for leaks. EPA issued the secondary containment grant guidelines on November 15, 2006; see EPA's web site at: http://www.epa.gov/oust/fedlaws/final_sc.htm to view the secondary containment grant guidelines.)

EPA developed the financial responsibility and installer certification guidelines in consultation with states and regional tank offices. The guidelines describe the minimum requirements states must meet in order to comply with the financial responsibility and installer certification provision in the Energy Policy Act. The guidelines include definitions, requirements, criteria, and options for states choosing to implement the financial responsibility and installer certification provision. To ensure the grant guidelines are implemented with minimal disruption, EPA is giving states considerable flexibility to establish their own financial responsibility and installer certification programs.

EPA recognizes that the law's February 8, 2007 deadline is imminent and that states will find it a challenge to implement the financial responsibility and installer certification requirements by that date. The Agency intends to monitor the actions states are taking to comply with these requirements. For states demonstrating good faith efforts and progress toward meeting the requirements, EPA has the flexibility, in appropriate cases, to continue assisting those states as they implement their programs.

Public Record Grant Guidelines

The public record grant guidelines are established in accordance with Section 1526 of the Energy Policy Act, which requires states to maintain, update, and make available to the public a record of federally-regulated underground storage tanks. This section requires that a state's public record must include the number, sources, and causes of UST releases; UST compliance records; and data on the number of UST equipment failures in the state. EPA is requiring states that receive funds under Subtitle I of the Solid Waste Disposal Act to develop a program for gathering information and begin gathering data to meet the public record requirement by October 1, 2007. EPA regional tank offices will need to incorporate the guidelines into their future grant agreements with states.

EPA developed the public record guidelines in consultation with states and regional tank offices. The guidelines describe the minimum requirements states must meet in order to comply with the public record provision in the Energy Policy Act. The guidelines include developing and updating the public record; making the public record available; describing the minimum public record content; ensuring data quality; and demonstrating and ensuring compliance with the guidelines. To ensure the grant guidelines are implemented with minimal disruption, EPA is giving states considerable flexibility to establish their own public record programs.

Additional Information

The financial responsibility and installer certification grant guidelines and public record grant guidelines are among several guidelines I will issue over the coming months to implement the underground storage tank provisions of the Energy Policy Act. We will continue to rely on the regions' help to develop the remaining grant guidelines and meet our new statutory requirements.

If you have any questions your staff may call Cliff Rothenstein, Director of EPA's Office of Underground Storage Tanks, at 703-603-9900 or rothenstein.cliff@epa.gov.

Attachments

(pdf file of financial responsibility and installer certification grant guidelines)

(pdf file of public record grant guidelines)

cc: Regional Division Directors
Regional Deputy Division Directors
Regional Branch Chiefs
Regional UST Program Managers
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