

Owners and operators of regulated underground storage tanks (USTs) on tribal lands must comply with federal UST regulations.

This compliance assistance brochure highlights best management practices for demonstrating financial responsibility through insurance.

Note: This document is a resource to promote compliance and does not replace the federal UST regulations.

EPA developed this brochure to help UST owners and operators in Indian country comply with the federal UST regulations.

This brochure is one in a series of EPA compliance assistance brochures designed to help owners and operators comply with UST regulations.

Other brochures focus on spill buckets, overfill protection, recordkeeping and notification, financial responsibility, and tank and piping release detection.

www.epa.gov/oust/pubs

USING INSURANCE TO DEMONSTRATE FINANCIAL RESPONSIBILITY BEST MANAGEMENT PRACTICES FOR YOUR UNDERGROUND STORAGE TANK



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Compliance Assistance In
Indian Country

FINANCIAL RESPONSIBILITY: INSURANCE

Owners and operators of regulated underground storage tanks (USTs) are required to maintain financial responsibility.

What is financial responsibility (FR)?

If you own and operate a regulated UST, you must ensure money is available to pay for cleanup costs, bodily injury, and property damages resulting from releases. FR is required for all regulated USTs.

How can you demonstrate FR?

There are several ways to show FR (e.g., obtain insurance; use a state fund; self-insure; obtain a corporate guarantee, surety bond, or letter of credit; or use a trust fund administered by a third party). Tribal and local governments can use a bond rating test, a financial test, obtain a guarantee, or use a dedicated fund. However, this brochure focuses on insurance, which is frequently obtained by owners and operators.



You can obtain a commercial liability insurance policy for pollution from a licensed insurer or risk retention group.

The policy promises payment for cleanup and third party liability claims. Your insurance may be provided in the form of a separate policy or an endorsement to an existing policy to satisfy the FR requirement.

All policies must provide coverage for cleaning up a release and paying for property damage and bodily injury, and the policy must provide a separate coverage for legal defense costs. You will have to make choices on what type of policy to purchase. Differences in policy terms will affect the cost of the policy and what the policy covers.

For a summary of UST owners' and operators' financial responsibilities under federal UST regulations, see EPA's *Dollars and Sense: Financial Responsibility Requirements for Underground Storage Tanks* at www.epa.gov/oust/pubs/dollars.htm. You may also order free copies by calling (800) 490-9198.

What are the basic parts of an insurance policy?

- ☞ **The declarations page** provides the coverage summary. The type, size, and location of the covered USTs should be listed on the declarations page (or as an endorsement). Make sure that your UST information is correctly listed.
- ☞ **The insuring agreement** describes what is covered under the policy, which includes:
 - * **Definitions** of the policy terms. Review what is defined as a pollution condition or a release;
 - * **Exclusions** of what is not covered; and
 - * **Policy conditions** that you must meet in the event of a claim or policy cancellation.
- ☞ **Endorsements or amendments** are provisions that modify the conditions of the original insuring agreement. Required language for endorsements and amendments can be found on pages 10 - 11 in EPA's *Dollars and Sense* at www.epa.gov/oust/pubs/dollars.htm. Keep this document with your policy.

Before purchasing a policy read it carefully. Discuss the policy with your agent or broker to make sure you understand your responsibilities, should a release occur from your UST.

How much insurance do you need?

The amount of coverage needed depends on :

- ☞ Type of business you operate;
- ☞ Amount of throughput of your tank;
- ☞ Number of tanks you have.

Type Of UST Owner And Operator	Per Occurrence Coverage	Aggregate Coverage
Petroleum producers, refiners, or marketers	\$1 million	\$1 million for 100 or fewer tanks or \$2 million for more than 100 tanks
Nonmarketers	\$500,000 - monthly throughput 10,000 gallons or less \$1 million - monthly throughput is more than 10,000 gallons	

What should you ask when purchasing an insurance policy?

The questions below are very important. and depending on how your policy is written, your insurance may not pay for a release from your tank.

- ☞ Is this a confirmed or suspected release policy?
- ☞ What is the company's policy on excluding tanks over certain ages?
- ☞ Can a retroactive date be carried from a previous or existing policy (for claims-made policies)?
- ☞ What are your reporting responsibilities should a release occur?

You should ask your agent or broker:

- ☞ Does the agent or broker have experience in issuing UST policies or know the federal UST regulations?
- ☞ Who has the insurer provided with this type of policy and can they provide you with names of clients?

Insurance policies must:

- ☞ Provide a separate limit of coverage for legal defense costs;
- ☞ Provide first dollar coverage and a six month extended reporting period for claims-made policies; and
- ☞ Include an endorsement or certificate stating coverage amount, coverage purpose, and conditions that become part of the policy.

What records should you keep?

Maintain an updated certification of insurance that is signed by the owner or operator and a witness or notary. The required wording for certification can be found at 40 CFR 280.111.

Maintain any additional documentation that shows your insurance coverage is valid and provides details on the coverage.

Keep these records on-site or readily available upon request until the site is permanently closed.

For a list of insurance providers who may be able to help you comply with FR see EPA's *List Of Known Insurance Providers For Underground Storage Tank Owners And Operators* at www.epa.gov/oust/pubs/inlist.htm. You may also order free copies by calling (800) 490-9198.