

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

This compliance assistance brochure highlights tips for demonstrating financial responsibility.

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

This brochure is one in a series of EPA compliance assistance brochures designed to help owners and operators in Indian country comply with the federal UST regulation.

Other brochures focus on implementation, compatibility, spill buckets, overfill protection, recordkeeping and notification, insurance, and tank and piping release detection.

www.epa.gov/ust/managing-your-usts-indian-country

DEMONSTRATING FINANCIAL RESPONSIBILITY MANAGING YOUR UNDERGROUND STORAGE TANK



Office of Underground Storage Tanks
www.epa.gov/ust
July 2018
EPA-510-F-18-003

Compliance Assistance In
Indian Country

FINANCIAL RESPONSIBILITY

Financial responsibility (FR) means you must ensure money will be available to pay for clean-up costs, bodily injury, and property damages caused by releases from regulated underground storage tanks (UST) that you own or operate. You must maintain FR until your USTs are permanently closed or cleanup is completed.

How much coverage do you need?

The amount of coverage you need depends on the:

- ☞ Type of business you operate;
- ☞ Amount of throughput of your tank; and
- ☞ 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
Nonmarketers	\$500,000 - monthly throughput 10,000 gallons or less or \$1 million - monthly throughput is more than 10,000 gallons	\$2 million for more than 100 tanks

How can you demonstrate FR?

Tribal governments can:

Use a bond rating test

- ☞ Self insure to demonstrate FR by passing the criteria described in [40 CFR 280.104](#).

Use a financial test

- ☞ Self insure to demonstrate FR by passing the criteria described in [40 CFR 280.105](#).

Obtain governmental guarantee

- ☞ Obtain a guarantee from the local tribal government or another government with which you have a substantial relationship, using the requirements described in [40 CFR 280.106](#).

The guarantee must pass the same tests required for bond rating, financial, and dedicated fund FR mechanisms.

A standby trust fund may need to be established when using a guarantee. Unspent money is returned to the funding source.

Use a dedicated fund

- ☞ Tribal governments may administer a dedicated fund if they meet the eligibility requirements described in [40 CFR 280.107](#).

Tribal and private owners and operators can:

Obtain insurance coverage via a policy that:

- ☞ Excludes legal defense costs from the required amount of coverage;
- ☞ Provides first dollar coverage;
- ☞ Provides a six month extended reporting period for claims-made policies; and
- ☞ Includes an endorsement or certificate that becomes part of the policy stating coverage amount, purpose, and other conditions.

Rely on a state fund

- ☞ Go to <https://www.epa.gov/ust/underground-storage-tank-ust-contacts> and contact the state to determine if there is a fund and whether you can use it.

Use a financial test

- ☞ Self insure to demonstrate FR by passing the criteria for one of the financial tests described in [40 CFR 280.95](#).

Obtain a corporate guarantee

- ☞ Obtain a guarantee from a business with which you have a substantial relationship described in [40 CFR 280.96](#). The guarantee provider must pass the same financial test required for self-insurance.

Obtain a letter of credit

- ☞ Obtain a letter of credit from a financial institution that guarantees payment for clean up or third-party damages.

Obtain a surety bond

- ☞ Obtain a surety bond that guarantees payment for clean up or third-party damages.

A standby trust fund must be established when using a corporate guarantee, letter of credit, or surety bond to show your FR. Unspent money is returned to the funding source.

Can you combine mechanisms?

Yes. You can use several methods to show FR. However, you cannot combine a financial test of self-insurance and a corporate guarantee if the owner or operator and guarantor's financial statements are combined.

Do you need a separate FR document for each facility?

No. However, you will need to show that all regulated USTs at all your facilities are covered.

Do you need to submit FR documents?

Yes. You need to submit FR documents:

- ☞ Within 30 days after finding a release; or
- ☞ For failing to obtain required alternate coverage; or
- ☞ As required by the implementing agency.

What records should you keep?

- ☞ Maintain an updated copy of a certification of FR signed by the owner or operator and a witness or notary. The required wording can be found on page 13 in EPA's [Dollars And Sense: Financial Responsibility Requirements for Underground Storage Tanks](#).
- ☞ Keep records of all FR documents on-site or make them available upon request. A list of the required documents can be found in [40 CFR 280.111](#).

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](#) or order free copies by calling (800) 490-9198.