**Template: Attorney General Statement Table**

**Subpart C: Criteria For No Less Stringent**

**Attorney General's Statement of Applicable State Authorities**

The following table contains references to (state xxx) rules and statutes subject to enforcement of EPA's applicable statutory and regulatory provisions set forth in 40 CFR part 280 to administer a program that is no less stringent than the federal requirements as provided in 40 CFR part 281 subpart C.

Copies of state rules that correspond to the regulatory requirements in 40 CFR part 280 are provided in Appendix xxx and applicable state statutes are provided in Appendix xxx.

**40 CFR part 280 subpart C: Criteria for No Less Stringent**

# SPA Objective 40 CFR § 281.30

**New UST System Design, Construction, Installation, and Notification**

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have requirements that ensure all new UST systems conform with the following system design, construction, installation and notification criteria:** |  **Corresponding State Rule Citation**  | **State Statutory Citation** |
| 1. USTs and piping in contact with the ground must be designed, constructed, and installed in a manner that will prevent releases for their operating life due to manufacturing defects, structural failure, or corrosion. Unless the state requires manufacturer and installer financial responsibility and installer certification in accordance with section 9003(i)(2) of the Solid Waste Disposal Act (SWDA), then the state must meet the following:

(1) New or replaced tanks and piping must use interstitial monitoring within secondary containment in accordance with section 9003(i)(1) of SWDA except as follows: (i) Underground piping associated with airport hydrant systems (AHS) or field constructed tanks (FCT) greater than 50,000 gallons; or1. Underground suction piping that meets

§281.33(d)(2)(ii).* 1. New motor fuel dispenser systems installed and connected to an UST system must be equipped with under dispenser containment in accordance with section 9003(i)(1) of SWDA.
 | **Secondary Containment Provision of EPAct of 2005:** |  |

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have requirements that ensure all new UST systems conform with the following system design, construction, installation and notification criteria:** | **Corresponding State Rule Citation** | **State Statutory Citation** |
| (b) Tanks must be provided with equipment to prevent spills and tank overfills when new tanks are installed or existing tanks are upgraded, unless the tank does not receive more than 25 gallons at one time. Flow restrictors used in vent lines are not allowable forms of overfill prevention when overfill prevention is installed or replaced. |  |  |
| (c) Owners and operators must notify the implementing agency of any new UST system and notify within reasonable timeframe of assuming ownership of an UST. |  |  |

# Certification of SPA Objective 40 CFR § 281.30 New UST System Design, Construction, Installation, and Notification:

**40 CFR § 281.30(a)**.

**EXAMPLE:** The state uses the same definition for an UST as in 40 CFR §280.12. The state requires UST systems be properly designed and constructed, and any portion underground that routinely contains a regulated substance must be protected from corrosion as specified in codes and standards, and must prevent the release of regulated substances during the operational life of the system. Installation must be performed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory; in accordance with the manufacturer's instructions; by personnel possessing appropriate skills, experience, license and certified by the tank and line manufacturer, if applicable; be present at all times during the installation to ensure proper procedures are followed; and certify on the state registration (notification) form that the installation of tanks and piping meet the requirements set forth in state rules.

The state requires tanks and piping installed after July 1, 2008, must use interstitial monitoring within secondary containment. Fuel dispensers must be equipped with under-dispenser containment in accordance with section 9003(i)(1) of SWDA.

The state has adopted the federal regulations by reference for airport hydrant fuel systems and field- constructed tanks relevant to new UST system design, construction, installation and notification requirements.

The state regulations are more stringent than the corresponding federal regulation by requiring all tank installations to be upgraded with under dispenser containment by January 1, 2018.

**40 CFR § 281.30(b)**

**40 CFR § 281.30(c)**

It is the opinion of (state xxx) Attorney General the state meets the no less stringent criterion for SPA

**SPA Objective 40 CFR § 281.31 Upgrading existing UST Systems**

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have requirements that ensure existing UST systems are upgraded to conform with the following:** | **Corresponding State Rule Citation** | **State Statutory Citation** |
| The state must have requirements that ensure existing UST systems meet the requirements of 40 CFR 281.30; are upgraded to prevent releases for their operating life due to corrosion, spills or overfills; or are permanently closed with the following exceptions:(a) Upgrade requirements for previously deferred UST systems. Previously deferred AHS and FCT systems must within three years of the effective date of its state requirements meet the requirements of 40 CFR 281.30 or be permanently closed. This provision would not apply, however, to states that did not defer these UST systems and already had, prior to the effective date of this provision, existing requirements with specified compliance periods for these types of UST systems. |  |  |
| (b) Upgrade requirements for other UST systems. States may allow UST systems to be upgraded if the state determines that the upgrade is appropriate to prevent releases for the operating life of the UST system due to corrosion and spills or overfills. |  |  |

# Certification of SPA Objective 40 CFR § 281.31 Upgrading Existing UST Systems:

**40 CFR § 281.31**

It is the opinion of (state xxx) Attorney General the state meets the no less stringent criterion for SPA Objective 40 CFR § 281.31

# SPA Objective 40 CFR § 281.32 General Operating Requirements

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have general operating requirements that ensure all new and existing UST systems conform with the following:** | **Corresponding State Rule Citation** | **State Statutory Citation** |
| (a) Prevent spills and overfills by ensuring that the space in the tank is sufficient to receive the volume to be transferred and that the transfer operation is monitored constantly. |  |  |
| (b) Where equipped with cathodic protection, be operated and maintained by a person with sufficient training and experience in preventing corrosion, and in a manner that ensures that no releases occur during the operating life of the UST system. Note to paragraph (b): Codes of practice developed by nationally recognized organizations and national independent testing laboratories may be used to demonstrate the state program requirements are no less stringent. |  |  |
| (c) Be made of or lined with materials that are compatible with the substance stored; in order to ensure compatibility, the state requirements must also include provisions for demonstrating compatibility with new and innovative regulated substances or other regulated substances identified by the implementing agency or include other provisions determined by the implementing agency to be no less protective of human health and the environment than the provisions for demonstrating compatibility. |  |  |
| (d) At the time of upgrade or repair, be structurally sound and upgraded or repaired in a manner that will prevent releases due to structural failure or corrosion during their operating lives. |  |  |
| (e) Have spill and overfill prevention equipment periodically tested or inspected in a manner and frequency that ensures its functionality for the operating life of the equipment and have the integrity of containment sumps used for interstitial monitoring of piping periodically tested in a manner and frequency that prevents releases during the operating life of the UST system |  |  |

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have general operating requirements that ensure all new and existing UST systems conform with the following:** | **Corresponding State Rule Citation** | **State Statutory Citation** |
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| (f) Have operation and maintenance walkthrough inspections periodically conducted in a manner and frequency that ensures proper operation and maintenance for the operating life of the UST system. |  |  |
| (g) Have records of monitoring, testing, repairs, and inspections. These records must be made readily available when requested by the implementing agency. |  |  |

**Certification of SPA Objective 40 CFR § 281.32 General Operating Requirements:**

**40 CFR § 281.32(a)**

**40 CFR § 281.32(b)**

**40 CFR § 281.32(c)**

**40 CFR § 281.32(d)**

**40 CFR § 281.32(e)**

**40 CFR § 281.32(f)**

**40 CFR § 281.32(g)**

It is the opinion of (state xxx) Attorney General the state meets the no less stringent criterion for SPA Objective 40 CFR § 281.32.

# SPA Objective 40 CFR § 281.33 Release Detection

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have release detection requirements that ensure all UST systems conform with the following:** | **Corresponding State Rule Citation** | **State Statutory Citation** |
| 1. Ensure all UST owners and operators have a method, or combination of release detection methods, that is:
	1. Capable of detecting a release of the regulated substance from any portion of the UST system that routinely contains regulated substances – as effectively as any of the methods allowed under this part – for as long as the UST system is in operation. In comparing methods, the implementing agency shall consider the size of the release that the method can detect and the speed and reliability with which the release can be detected.
	2. Designed, installed, calibrated, operated and maintained so that releases will be detected in accordance with the capabilities of the method.
	3. Operated and maintained, and electronic and mechanical components and other equipment are tested or inspected periodically, in a manner and frequency that ensures proper operation to detect releases for the operating life of the release detection equipment.
 |  |  |
| 1. Release detection requirements must, at a minimum, be applied at all UST systems immediately, except for UST systems previously deferred under §280.10(a)(1). Release detection requirements must, at a minimum, be scheduled to be applied to those previously deferred UST systems as follows:
	1. Immediately when a new previously deferred UST system is installed, and
	2. For any previously deferred UST system within three years of the effective date of its state requirements. Note: This provision does not apply to states that did not defer these UST systems and already had, prior to the effective date of this provision, existing release detection requirements with specified compliance periods for these types of UST systems.
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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have release detection requirements that ensure all UST systems conform with the following:** | **Corresponding State Rule Citation** | **State Statutory Citation** |
| 1. All petroleum tanks must meet the following requirements:
	1. Be sampled, tested or checked for releases at least monthly, except that tanks installed before October 13, 2015 or upgraded tanks (that is, tanks and piping protected from releases due to corrosion and equipped with both spill and overfill prevention devices) may temporarily use monthly inventory control or its equivalent conducted every five years for the first 10 years after the tank is installed; and
	2. New or replaced petroleum tanks must use interstitial monitoring within secondary containment in accordance with section 9003(i)(1) of SWDA except when the state requires manufacturer and installer financial responsibility and installer certification in accordance with section 9003(i)(2) of SWDA.
 |  |  |
| 1. All underground piping attached to the tank that routinely conveys petroleum must conform to the following:

(1) If the petroleum is conveyed under greater than atmospheric pressure:* + 1. The piping must be equipped with release detection that detects a release within an hour by restricting or shutting off flow or sounding an alarm; and
		2. The piping must have monthly monitoring applied or annual tightness tests conducted.

(2) If suction lines are used: (i) Tightness tests must be conducted at least once every three years, unless a monthly method of detection is applied to this piping; or(ii) The piping is designed to allow the contents of the pipe to drain back into the storage tank if the suction is released and is also designed to allow an inspector to immediately determine the integrity of the piping system.  |  |  |

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have release detection requirements that ensure all UST systems conform with the following:** | **Corresponding State Rule Citation** | **State Statutory Citation** |
| * 1. Except as provided for in § 281.30(a)(1) new or replaced petroleum piping must use interstitial monitoring within secondary containment in accordance with section 9003(i)(1) of the Solid Waste Disposal Act except when the state requires evidence of financial responsibility and certification in accordance with section 9003(i)(2) of SWDA.
 |  |  |
| (e) All new hazardous substance UST systems must use interstitial monitoring within secondary containment of the tanks and the attached underground piping that conveys the regulated substance stored in the tank. For hazardous substance UST systems installed prior to October 13, 2015, owners and operators can use another form of release detection if the owner and operator can demonstrate to the state (or the state otherwise determines) that another method will detect a release of the regulated substance as effectively as other methods allowed under the state program for petroleum UST systems and that effective corrective action technology is available for the hazardous substance being stored that can be used to protect human health and the environment. |  |  |

# Certification of SPA Objective 40 CFR § 281.33 Release Detection:

**40 CFR § 281.33(a)**

**40 CFR § 281.33(b)**

**40 CFR § 281.33(c)**

**40 CFR § 281.33(d)**

# 40 CFR § 281.33(e)

It is the opinion of (state xxx) Attorney General the state meets the no less stringent criterion for SPA Objective 40 CFR § 281.33.

# SPA Objective 40 CFR § 281.34

**Release Reporting, Investigation, and Confirmation**

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have release reporting, investigation, and confirmation requirements that conform with the following:** | **Corresponding State Rule Citation**  | **State Statutory Citation** |
| (a) Ensure all owners and operators promptly investigate all suspected releases, including:* 1. When unusual operating conditions, release detection signals and environmental conditions at the site suggest a release of regulated substances may have occurred or the interstitial space may have been compromised; and
	2. When required by the implementing agency to determine the source of a release having an impact in the surrounding area.
 |  |  |
| (b) Ensure all owners and operators promptly report all confirmed underground releases and any spills and overfills that are not contained and cleaned up. |  |  |
| (c) Ensure all owners and operators contain and clean up unreported spills and overfills in a manner that will protect human health and the environment. |  |  |

# Certification of SPA Objective 40 CFR § 281.34 Release Reporting, Investigation, and Confirmation:

**40 CFR § 281.34(a)**

**40 CFR § 281.34(b)**

**40 CFR § 281.34(c)**

It is the opinion of (state xxx) Attorney General the state meets the no less stringent criterion for SPA Objective 40 CFR § 281.34.

# SPA Objective 40 CFR § 281.35

**Release Reporting and Corrective Action**

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have release reporting and corrective action requirements that conform with the following:** | **Corresponding State Rule Citation** | **State Statutory Citation** |
| (a) All releases from UST systems are promptly assessed and further releases are stopped. |  |  |
| (b) Actions are taken to identify, contain and mitigate any immediate health and safety threats that are posed by a release (such activities include investigation and initiation of free product removal, if present). |  |  |
| (c) All releases from UST systems are investigated to determine if there are impacts to soil and groundwater, and any nearby surface waters. The extent of soil and groundwater contamination must be delineated when a potential threat to human health and the environment exists. |  |  |
| (d) All releases from UST systems are cleaned up through soil and groundwater remediation and any other steps are taken, as necessary to protect human health and the environment. |  |  |

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have release reporting and corrective action requirements that conform with the following:** | **Corresponding State Rule Citation**  | **State Statutory Citation** |
| (e) Adequate information is made available to the state to demonstrate that corrective actions are taken in accordance with the requirements of paragraphs (a) through (d) of this section. This information must be submitted in a timely manner that demonstrates its technical adequacy to protect human health and the environment. |  |  |
| (f) In accordance with § 280.67 (Public Participation), the state must notify the affected public of all confirmed releases requiring a plan for soil and groundwater remediation, and upon request provide or make available information to inform the interested public of the nature of the release and the corrective measures planned or taken. |  |  |

**Certification of SPA Objective 40 CFR § 281.35 Release Reporting and Corrective Action:**

**40 CFR § 281.35(a)**

**40 CFR § 281.35(b)**

**40 CFR § 281.35(c)**

**40 CFR § 281.35(d)**

**40 CFR § 281.35(e)**

**40 CFR § 281.35(f)**

It is the opinion of (state xxx) Attorney General the state meets the no less stringent criterion for SPA Objective 40 CFR § 281.35.

# SPA Objective 40 CFR § 281.36

**Out of Service UST Systems and Closure**

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have requirements for out of service UST systems and closure that conform with the following:** | **Corresponding State Rule Citation** | **State Statutory Citation** |
| 1. Removal from service. All new and existing UST systems temporarily closed must:
	1. Continue to comply with general operating requirements, release reporting and investigation, and release response and corrective action;
	2. Continue to comply with release detection requirements if regulated substances are stored in the tank;
	3. Be closed off to outside access; and
	4. Be permanently closed if the UST system has not been protected from corrosion and has not been used in one year, unless the state approves an extension after the owner and operator conducts a site assessment.
 |  |  |
| (b) Permanent closure of UST systems. All tanks and piping must be cleaned and permanently closed in a manner that eliminates the potential for safety hazards and any future releases. The owner or operator must notify the state of permanent UST system closures. The site must also be assessed to determine if there are any present or were past releases, and if so, release response and corrective action requirements must be complied with. |  |  |
| (c) All UST systems taken out of service before the effective date of the federal regulations must permanently close in accordance with paragraph (b) of this section when directed by the implementing agency. |  |  |

# Certification of SPA Objective 40 CFR § 281.36 Out of Service UST Systems and Closure:

**40 CFR § 281.36(a)**

**40 CFR § 281.36(b)**

**40 CFR § 281.36(c)**

It is the opinion of (state xxx) Oklahoma Attorney General the state meets the no less stringent criterion for SPA Objective 40 CFR § 281.36.

# SPA Objective 40 CFR § 281.37

**Financial Responsibility (FR) for UST Systems Containing Petroleum**

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR part 280, the state must have Financial Responsibility (FR) requirements that conform with the following:** | **Corresponding State Rule Citation** | **State Statutory Citation** |
| 1. In order to be considered no less stringent than the federal requirements for FR for UST systems containing petroleum, the state requirements for FR for petroleum UST systems must ensure that:
	1. Owners and operators have $1 million per occurrence for corrective action and third-party claims in a timely manner to protect human health and the environment;
	2. Owners and operators not engaged in petroleum production, refining, and marketing and who handle a throughput of 10,000 gallons of petroleum per month or less have $500,000 per occurrence for corrective action and third-party claims in a timely manner to protect human health and the environment;
	3. Owners and operators of 1 to 100 petroleum UST's must have an annual aggregate of $1 million; and
	4. Owners and operators of 101 or more petroleum UST's must have an annual aggregate of $2 million.
 |  |  |
| (b) States may allow the use of a wide variety of financial assurance mechanisms to meet this requirement. Each financial mechanism must meet the following criteria in order to be no less stringent than the federal requirements. The mechanisms must: be valid and enforceable; be issued by a provider that is qualified or licensed in the state; not permit cancellation without allowing the state to draw funds; ensure that funds will only and directly be used for corrective action and third party liability costs; and require that the provider notify the owner or operator of any circumstances that would impair or suspend coverage. |  |  |
| (c) States must require owners and operators maintain records that demonstrate compliance with Financial Responsibility requirements, and these records must be made readily available when requested by the implementing agency. | **:** |  |

# Certification of SPA Objective 40 CFR § 281.37 Financial Responsibility (FR) for UST Systems Containing Petroleum:

**40 CFR § 281.37.**

It is the opinion of (state xxx) Attorney General the state meets the no less stringent criterion for SPA Objective 40 CFR § 281.37.

# SPA Objective 40 CFR § 281.38 Lender Liability

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR 280, the state must have lender liability requirements that conform with the following:** | **Corresponding State Rule Citation** | **State Statutory Citation** |
| 1. A state program that contains a security interest exemption will be considered to be no less stringent than, and as broad in scope as, the federal program, provided that the state's exemption:
	1. Mirrors the security interest exemption provided for in 40 CFR part 280, subpart I; or
	2. Achieves the same effect as provided by the following key criteria:
		1. A holder, meaning a person who maintains indicia of ownership primarily to protect a security interest in a petroleum UST or UST system or facility or property on which a petroleum UST or UST system is located, who does not participate in the management of the UST or UST system as defined under §280.10 of this chapter, and who does not engage in petroleum production, refining, and marketing as defined under §280.200(b) of this chapter is not:
			1. An owner of a petroleum UST or UST system or facility or property on which a petroleum UST or UST system is located for purposes of compliance with the requirements of 40 CFR part 280; or
			2. An operator of a petroleum UST or UST system for purposes of compliance with the requirements of 40 CFR part 280, provided the holder is not in control of or does not have responsibility for the daily operation of the UST or UST system.
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# Certification of SPA Objective 40 CFR § 281.38 Lender Liability:

**40 CFR § 281.38(a).**

It is the opinion of (state xxx) Attorney General the state meets the no less stringent criterion for SPA Objective 40 CFR § 281.38

# SPA Objective 40 CFR § 281.39 Operator Training

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| **In order to be considered no less stringent than the corresponding federal requirements in 40 CFR §280, the state must have operator training requirements that conform with the following:** | **Corresponding State Rule Citation** | **State Statutory Citation** |
| The state must have an operator training program that meets the minimum requirements of section 9010 of SWDA. |  |  |

**Certification of SPA Objective 40 CFR § 281.39 Operator Training:**

**40 CFR § 281.39.**

It is the opinion of (state xxx) Attorney General the state meets the no less stringent criterion for SPA Objective 40 CFR § 281.39.

# SPA Objective 40 CFR § 281.40

# Legal Authorities for Compliance Monitoring

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| **The state must have the following specific compliance monitoring authorities:** | **Corresponding State Rule Citation** | **State Statutory Citation**  |
| (a) Any authorized representative of the state engaged in compliance inspections, monitoring, and testing must have authority to obtain by request any information from an owner or operator with respect to the UST system(s) that is necessary to determine compliance with the regulations. |  |  |
| (b) Any authorized representative of the state must have authority to require an owner or operator to conduct monitoring or testing. |  |  |
| (c) Authorized representatives must have the authority to enter any site or premises subject to UST system regulations or in which records relevant to the operation of the UST system(s) are kept, and to copy these records, obtain samples of regulated substances, and inspect or conduct the monitoring or testing of UST system(s). |  |  |

**Certification of SPA Objective 40 CFR § 281.40**

**40 CFR § 281.40**

### **SPA Objective 40 CFR § 281.41**

### **Legal Authorities for Enforcement Response**

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| **The state must have the following specific enforcement response authorities for state program approval:** | **Corresponding State Rule Citation** | **State Statutory Citation**  |
| (a) Any state agency administering a program must have the authority to implement the following remedies for violations of state program requirements:(1) To restrain immediately and effectively any person by order or by suit in state court from engaging in any unauthorized activity that is endangering or causing damage to public health or the environment;(2) To sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement;(3) To assess or sue to recover in court civil penalties as follows: (i) Civil penalties for failure to notify or for submitting false information pursuant to tank notification requirements must be capable of being assessed up to $5,000 or more per violation. (ii) Civil penalties for failure to comply with any State requirements or standards for existing or new tank systems must be capable of being assessed for each instance of violation, up to $5,000 or more for each tank for each day of violation. If the violation is continuous, civil penalties shall be capable of being assessed up to $5,000 or more for each day of violation. |  |  |

**Certification of SPA Objective 40 CFR § 281.41 Legal Authorities for Enforcement Response**

**40 CFR § 281.41**

### **Public Participation in Enforcement Proceedings**

####  **SPA Objective 40 CFR § 281.42**

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| **Any state administering a program must provide for public participation in the state enforcement process by providing any one of the following three options:** | **State Rule Citation** | **State Statutory Citation**  |
| (a) Authority that allows intervention analogous to Federal Rule 24(a)(2), and assurance by the appropriate state enforcement agency that it will not oppose intervention under the state analogue to Rule 24(a)(2) on the ground that the applicant's interest is adequately represented by the State. |  |  |

**Certification of SPA Objective 40 CFR § 281.42 Public Participation in Enforcement Proceedings**

**40 CFR § 281.42**

**Underground Storage Tank Compliance Act from Energy Policy Act of 2005—Public Record**

**Objective: 9002(d) of the Solid Waste Disposal Act, Subtitle I (42 U.S.C. 6991a)**

**Section 1526 of the Energy Policy Act of 2005**

**Grant Guidelines to States for Implementing the Public Record Provisions of the Energy Policy Act of 2005**

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|  | **Corresponding State Rule Citation** | **State Statutory** **Citation**  |
| (a) The public record of a state must include: * The number, sources, and causes of underground storage tank releases in the state.
* The record of compliance by underground storage tanks in the state with Subtitle I or a state program approved under Section 9004 of Subtitle I.
* Data on the number of underground storage tank equipment failures in the state.
 |  |  |
| (b) The State must update the public record at least annually |  |  |
| (c) Each state must develop a website that does one of the following: * The public record is posted on or downloadable from the internet. This option may be an interactive website that retrieves the information, a website that lists the information, or a file that is downloadable in electronic format.
* The website describes how to receive an electronic copy of the public record (for example via e-mail).
 |  | ) |

**Notes on Objective from the Underground Storage Tank Compliance Act from Energy Policy Act of 2005 for the Public Record Provisions, 9002(d) of the Solid Waste Disposal Act, Subtitle I (42 U.S.C. 6991a), Section 1526 of the Energy Policy Act of 2005**

### **Underground Storage Tank Compliance Act from Energy Policy Act of 2005—Delivery Prohibition**

#### **Objective: 9012 of the Solid Waste Disposal Act, Subtitle I (42 U.S.C. 6991)Section 1527 of the Energy Policy Act of 2005Grant Guidelines to States for Implementing the Delivery Prohibition Provisions of the Energy Policy Act of 2005**

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|  | **Corresponding State Rule Citation** | **State Statutory Citation**  |
| (a) The state must prohibit the delivery, deposit, or acceptance of product to an underground storage tank that has been determined to be ineligible by the state for such delivery, deposit, or acceptance |  |  |
| (b) The state must develop criteria for determining which underground storage tanks are ineligible for delivery, deposit, or acceptance of product; |  |  |
| (c) The state must develop a process for reclassifying ineligible underground storage tanks as eligible for delivery, deposit, or acceptance of product; |  |  |
| (d) The state must develop a process for providing adequate notice to underground storage tank owners and operators and product deliverers that an underground storage tank has been determined to be ineligible for delivery, deposit, or acceptance of product;  |  |  |
| (e) The state must delineate a process for the application of delivery prohibition in rural and remote areas.  |  |  |
| (f) A state must classify an underground storage tank as ineligible for delivery, deposit, or acceptance of product as soon as practicable after the state determines an underground storage tank meets one or more of the following conditions:• Required spill prevention equipment is not installed;• Required overfill protection equipment is not installed;• Required leak detection equipment is not installed;• Required corrosion protection equipment is not installed; or• Other conditions a state deems appropriate. |  |  |
| (g) A state should also classify an underground storage tank as ineligible for delivery, deposit, or acceptance of product if the owner or operator of that tank has been issued a written warning or citation (notice of violation or other form indicating a violation) under any of the following circumstances and the owner or operator has failed to take corrective action after a reasonable time frame that is determined by the state:• Failure to properly operate or maintain. or both, leak detection equipment;• Failure to properly operate or maintain, or both, spill, overfill, or corrosion protection equipment;• Failure to maintain financial responsibility;• Failure to protect a buried metal flexible connector from corrosion; or• Other conditions a state deems appropriate. |  |  |
| (h) The state, after notification by the owner or operator that the violation(s) has been corrected, must do the following as soon as practicable:• Confirm compliance. If any deficiencies that led to the delivery prohibition remain, the state must notify the owner or operator.• Return the underground storage tank to being eligible to receive product if the violation(s) has been corrected and confirmed by the state. |  |  |
| (i) The state must make a reasonable effort to notify tank owners or operators in writing (e.g., field notification, mail, e-mail, or fax) prior to prohibiting the delivery, deposit, or acceptance of product. If an owner or operator is not present at the facility at the time the underground storage tank is identified as ineligible, an employee at the facility at the time of identification (in lieu of the owner or operator) may be notified in writing prior to prohibiting delivery. |  |  |
| (j) The state must develop processes and procedures for notifying product deliverers when an underground storage tank is ineligible for delivery, deposit, or acceptance of product. The mechanism a state chooses for identifying eligible or ineligible underground storage tanks (e.g., green tags, red tags) may provide adequate notice to product deliverers. |  |  |
| (k) The state may only defer application of delivery prohibition for up to 180 days after determining an underground storage tank is ineligible for delivery, deposit, or acceptance of product. |  |  |

**Notes on Objective from the Underground Storage Tank Compliance Act from Energy Policy Act of 2005 for Delivery Prohibition, 9012 of the Solid Waste Disposal Act, Subtitle I (42 U.S.C. 6991), Section 1527 of the Energy Policy Act of 2005**

### **Underground Storage Tank Compliance Act from Energy Policy Act of 2005—Inspection Requirements**

### **Objective: 9005(c)(1), 9005(c)(2) of the Solid Waste Disposal Act, Subtitle I (42 U.S.C. 6991d)Section 1523 of the Energy Policy Act of 2005Grant Guidelines to States for Implementing the Inspection Provisions of the Energy Policy Act of 2005**

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| --- | --- | --- |
|  | **Corresponding State Rule Citation** | **State Statutory Citation**  |
| (a) Underground storage tanks that have not been inspected since December 22, 1998 must have an on-site inspection conducted not later than August 8, 2007 to determine compliance with Subtitle I and 40 CFR part 280 requirements or requirements or standards of a state program developed under Section 9004. |  |  |
| (b) On-site inspections of each underground storage tank must be conducted at least once every three years to determine compliance with Subtitle I and 40 CFR part 280 requirements or requirements or standards of a state program developed under Section 9004. |  |  |
| (c) At a minimum, an on-site inspection must assess compliance with the following:• Notification (failure to notify)• Corrosion protection- tanks and piping have appropriate corrosion protection- documentation available including testing, inspections, and other records• Overfill prevention in place and operational• 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• Reporting suspected releases• Records of tank and piping repairs• Secondary containment where required• Financial responsibility• Temporary closure |  |  |

**Notes on Objective from the Underground Storage Tank Compliance Act from Energy Policy Act of 2005 for Inspection Requirements, 9005(c)(1), 9005(c)(2) of the Solid Waste Disposal Act, Subtitle I (42 U.S.C. 6991d), Section 1523 of the Energy Policy Act of 2005**