U.S. Environmental Protection Agency

Information Collection Request

**Title:** Underground Storage Tanks: Technical and Financial Requirements, and State Program Approval Procedures

**OMB Control Number:** 2050-0068

**EPA ICR Number:** 1360.18

**Abstract:** XXXX

**Supporting Statement A**

1. **NEED AND AUTHORITY FOR THE COLLECTION**

*Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.*

The ICR covers all aspects of management of USTs, owner and operator duties, and states submitting their own programs for approval, to be administered in lieu of the federal UST program. This data collection is needed to help detect releases from leaking UST systems, spills and overfills. The UST reporting and recordkeeping requirements are intended to yield valuable information on UST systems and to ensure prompt action when releases are detected.

The statutes authorizing the UST program can be found at: <https://uscode.house.gov/browse/prelim@title42/chapter82/subchapter9&edition=prelim> and <https://www.govinfo.gov/content/pkg/PLAW-109publ58/html/PLAW-109publ58.htm>. Within this website go to Title XV – Ethanol And Motor Fuels, Subtitle B – Underground Storage Tank Compliance, Sections 1521-1533 for the underground storage tank provisions. The UST regulations can be found at <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-280> and <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-281?toc=1>.

Owner and Operator Respondents

RCRA Subtitle I, as amended, contains UST statutory requirements. RCRA section 9002, 42 U.S.C. § 6991a directs EPA to promulgate notification requirements for new USTs. Submitted notifications help EPA track the number and location of USTs and their design specifications. EPA needs to collect this information to ensure that USTs meet requirements.

RCRA section 9003, 42 U.S.C. § 6991b directs EPA to promulgate technical regulations for all USTs. The regulations include, but are not limited to, requirements for maintaining records of any monitoring or leak-detection system, and requirements for ensuring equipment is working properly, requirements for reporting releases and corrective actions taken in response to an UST release, and requirements for the closure of tanks. EPA requires this reporting and recordkeeping to facilitate prompt detection of releases and to prevent future releases of regulated substances into the environment.

RCRA section 9003(d), 42 U.S.C. § 6991b(d), requires that EPA promulgate regulations for demonstrating financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and non-sudden accidental releases from USTs. To comply with the regulations, private owners and operators and local government owners and operators must demonstrate financial responsibility using one or a combination of the mechanisms specified at 40 CFR Part 280, Subpart H. The need for financial responsibility for corrective action and third-party liability is shown by numerous instances of environmental damage resulting from releases of regulated substances from tanks. EPA requires this reporting and recordkeeping to ensure the financial ability of owners and operators of USTs to remediate or pay for damages resulting from releases.

State Agency Respondents

RCRA subtitle I allows state UST programs approved by EPA to operate in lieu of the federal program. RCRA section 9004, 42 U.S.C. § 6991c, specifies procedures for states to gain approval to implement their own UST programs in lieu of the federal program. To receive approval, a state must demonstrate that its program is no less stringent than the federal UST program and provides adequate enforcement of its regulations.

EPA needs to collect this information to determine whether a state program can sufficiently protect human health and the environment. A state must prove that it can enforce its UST regulations relating to tank management and operations as well as releases. Once approved, EPA has the authority to request that states with approved state programs furnish to EPA, at any time, information in state files on the administration of the program, including data on enforcement and compliance under §281.40. EPA needs this information to determine whether a state program continues to meet state program approval requirements.

Owners and operators in states that have an approved UST program do not have to deal with two sets of statutes and regulations (state and federal) that may be conflicting. Even for states without state program approval, EPA enters into grant/cooperative agreements with state programs, and the state program is designated as the primary implementing agency.

1. **PRACTICAL UTILITY/USERS OF THE DATA**

*Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

Owner and Operator Respondents

Owners, operators, and implementing agencies will use the data collected about new and existing UST system operations and financial responsibility. Data maintained in records are used to monitor results of testing, inspections, and operations of UST systems, as well as to demonstrate compliance with regulations.

Implementing agencies use the notifications and submitted information to monitor compliance with UST regulations. Implementing agencies also use the financial responsibility information in the event of a release to decide whether funds from the Leaking Underground Storage Tank Trust Fund will be used to pay for corrective action.

State Agency Respondents

EPA uses state program applications to determine whether to approve a state program. Before granting approval, EPA must determine that programs will be no less stringent than the federal program and contain adequate enforcement mechanisms. EPA uses each part of the program application to determine how the state program corresponds to the federal program, how the state will administer the program, and how to define and coordinate efforts between EPA and the state. Once approved, EPA may request that states submit files on the administration of the program, including data on enforcement and compliance under §281.40. EPA will use this information to determine whether a state program continues to meet state program approval requirements.

1. **USE OF TECHNOLOGY**

*Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.*

The UST program primarily requires recordkeeping rather than reporting to minimize the burden on owners and operators. For the grant programs, OUST created an online system for grantees to submit their data twice a year. EPA works closely with states to help them report their data and ensures that all procedures are designed to minimize burden on respondents.

1. **EFFORTS TO IDENTIFY DUPLICATION**

*Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

Most of the information required by the UST regulations is available only from the respondents. To avoid duplicating previous work, respondents may draw upon similar analyses in compiling data for UST monitoring, recordkeeping, reporting, and testing requirements, provided the information meets the requirements specified in the regulations.

1. **MINIMIZING BURDEN ON SMALL BUSINESSES AND SMALL ENTITIES**

*If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.*

In promulgating the UST regulations covered under this ICR, EPA attempted to minimize the reporting and recordkeeping burden for small businesses. For instance, EPA did not require any retrofits of equipment to lessen the burden on owners and operators, especially small businesses. In addition, EPA made as many requirements as possible recordkeeping rather than reporting requirements to minimize the burden on small businesses.

1. **CONSEQUENCES OF LESS FREQUENT COLLECTION**

*Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

EPA has carefully considered the burden imposed upon the regulated community by the information collection requirements covered in this ICR. EPA is confident that those activities required of respondents are necessary; to the extent possible, the Agency has attempted to minimize the burden imposed. If the minimum information collection requirements specified under the revisions are not met, neither the facilities nor EPA can ensure that UST systems are being managed in a manner protective of human health and the environment.

1. **GENERAL GUIDELINES**

*Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.*

This ICR adheres to 5 CFR 1320.5(d)(2)), with some exceptions. UST owners or operators are required to provide a written response in fewer than 30 days when reporting suspected releases (§280.50) and reporting spills and overfills (§280.53). In several instances, Part 280 requires owners and operators of USTs to maintain records for more than 30 days. Section 4(b) describes the duration of these recordkeeping requirements. In addition, an owner or operator must notify the implementing agency within 10 days if the owner or operator fails to obtain alternative financial assurance within 150 days of discovering, or within 30 days of being notified by the implementing agency, that he or she no longer meets the financial test. UST owners and operators and providers of financial assurance must also adhere to notification requirements regarding bankruptcy or other incapacities within 10 days after commencement of bankruptcy proceedings (§280.114). These requirements enable EPA and the implementing agency to ensure that owners and operators are managing their UST systems in a manner protective of human health and the environment.

1. **PUBLIC COMMENT AND CONSULTATIONS**

**8a. Public Comment**

*If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the Agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the Agency in response to these comments. Specifically address comments received on cost and hour burden.*

The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published in the Federal Register (88 FR 44125) on July 11, 2023, and the comment period closed on September 11, 2023. EPA did not receive any comments during the first comment period.

**8b. Consultations**

*Describe efforts to consult with persons outside the Agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.*

Under 5 CFR 1320.8(d)(1), OMB requires agencies to consult with potential ICR respondents and data users about specific aspects of ICRs before submitting an original or renewal ICR to OMB for review and approval. Most of the underlying assumptions in this ICR (e.g., burden hour estimates) are based on EPA consultations with industry and states conducted during the renewal of previous UST ICRs. Some assumptions are based on EPA consultations with UST experts, undertaken through its consultant Industrial Economics, Inc., to assess the benefits and costs of the 2015 revisions. As part of this ICR renewal, EPA consulted with industry as seen in Table 1 and state agencies. EPA asked industry representatives to review estimates of hourly labor rates for facility staff and contractors, as well as estimates of the time required for facility staff and contractors to perform various tasks required under 40 CFR Part 280. EPA consulted the Idaho and Oklahoma state UST programs regarding the time and cost burden estimates for states seeking program approval under 40 CFR Part 281. EPA sought out states that had obtained state program approval relatively recently. The burden hour estimates in this ICR reflects the feedback EPA received from industry and states.

**Table 1**

|  |
| --- |
| **Organizations Consulted as Part of the ICR Renewal** |
| Circle K Stores, Inc. |
| Kwik Trip |
| Speedway |
| 7-Eleven, Inc. |
| Burns & McDonnell Environmental |
| Idaho Department of Environmental Quality |
| Oklahoma Corporation Commission |

Section 3007(b) of the Resource Conservation and Recovery Act and 40 CFR Part 2, Subpart B, which define EPA’s general policy on public disclosure of information, contain provisions for confidentiality. However, the Agency does not anticipate that businesses will assert a claim of confidentiality for all or part of the requirements covered in this ICR. If such a claim were asserted, EPA must and will treat the information in accordance with the regulations cited above. EPA will also ensure that this information collection complies with the Privacy Act of 1974 and OMB Circular A-130.

1. **PAYMENTS OR GIFTS TO RESPONDENTS**

*Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.*

No payments or gifts will be provided to respondents.

1. **ASSURANCE OF CONFIDENTIALITY**

*Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or Agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.*

All information submitted to the agency in response to the ICR will be managed in accordance with applicable laws and EPA’s regulations governing treatment of confidential business information at 40 CFR Part 2, Subpart B. Any information determined to constitute a trade secret will be protected under 18 U.S.C. § 1905.

1. **JUSTIFICATION FOR SENSITIVE QUESTIONS**

*Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the Agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

All information submitted to the agency in response to the ICR will be managed in accordance with applicable laws and EPA’s regulations governing treatment of confidential business information at 40 CFR Part 2, Subpart B. Any information determined to constitute a trade secret will be protected under 18 U.S.C. § 1905.

1. **RESPONDENT BURDEN HOURS & LABOR COSTS**

*Provide estimates of the hour burden of the collection of information. The statement should:*

* *Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Generally, estimates should not include burden hours for customary and usual business practices.*
* *If this request for approval covers more than one form, provide separate hour burden estimates for each form and the aggregate the hour burdens.*
* *Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included as O&M costs under non-labor costs covered under question 13.*

**12a. Respondents/NAICS Codes**

Table 2 lists the North American Industry Classification System (NAICS) sectors associated with industries most likely affected by the information collection requirements covered in this ICR. Other sectors anticipated to be affected by the information collection requirements not shown in Table 2 include local, state, and federal governments. This ICR does not include the burden on UST facilities owned by the federal government, in keeping with the Paperwork Reduction Act.

**Table 2**

**NAICS Sectors of Affected Industries**

| **NAICS Sector** | **NAICS Sector Description** |
| --- | --- |
| 111 | Crop Production |
| 112 | Animal Production and Aquaculture |
| 211130 | Natural Gas Extraction |
| 2211 | Electric Power Generation, Transmission, and Distribution |
| 31-33 | Manufacturing |
| 42 | Wholesale Trade |
| 44-45 | Retail Trade |
| 447 | Gasoline Stations |
| 452311 | Warehouse Clubs and Supercenters |
| 481 | Air Transportation |
| 483 | Water Transportation |
| 484 | Truck Transportation |
| 485 | Transit and Ground Passenger Transportation |
| 486 | Pipeline Transportation |
| 48811 | Airport Operations |
| 517311 | Wired Telecommunications Carriers |
| 56211 | Waste Collection |
| 622 | Hospitals |
| 72 | Accommodation and Food Services |

**12b. Information Requested**

Owner and Operator Respondents

Regulations in 40 CFR Part 280 contain technical and financial responsibility requirements for owners and operators of USTs. This ICR summarizes the information collection requirements of the revisions to Part 280, and associated data items and respondent activities, in the order in which they would appear in Part 280.

1. Subpart B: UST Systems: Design, Construction, Installation, and Notification

*Upgrading of Existing UST Systems*

§280.21 describes the requirements for upgrading existing UST systems. The revisions will require owners and operators to close lined tanks that are no longer performing in accordance with original design specifications and cannot be repaired according to a code of practice. EPA estimates that 5323 facilities will 6 burden hours per respondent for a cost of $1919 per respondent for performing lining inspections every five years under 280.21 and 26,616 respondents will have to maintain records for a burden of 10 minutes per respondent and cost of $2.86 per respondent.

*Notification Requirements*

§280.22 describes the notification requirements for UST systems. All of the information in sections I through XI of the notification form (see the latest notification form on EPA’s website, <https://www.epa.gov/ust/notification-forms-underground-storage-tanks>), or similar state forms used in lieu of the federal form, must be filled out completely (§280.22(a)). In addition, any person who assumes ownership of a regulated UST system must, within 30 days of acquisition, submit a notice of the ownership change to the implementing agency (§280.22(b)) (see the latest notification of ownership change form on EPA’s website, <https://www.epa.gov/ust/notification-forms-underground-storage-tanks>). Lastly, any person selling an UST must notify the purchaser of such tanks of the owner’s notification obligations under §280.22(a). EPA estimates the following associated burden hours and costs for 280.22 requirement: to prepare and submit forms will require 3650 respondents for .75 burden hours per respondent for a cost to each respondent of $43.53, to notify purchasers of an UST of owners notification obligations will require 53,233 respondents 1 burden hour each at a cost of $29.23 per respondent and to prepare and submit the notification form within 30 days of assuming ownership will cost 19,840 respondents .25 burden hours each for a cost of $16.76 per respondent.

1. Subpart C: General Operating Requirements

*Operation and Maintenance of Corrosion Protection*

Owners and operators with cathodically protected steel UST systems must periodically inspect their systems and have a qualified cathodic protection tester conduct periodic tests. §§280.31(d)(1) and (2) require owners and operators to maintain records that demonstrate compliance with performance standards for UST systems using cathodic protection. EPA estimates that 91,826 respondents will spend .25 burden hours each at a cost of $317 per respondent to have a qualified tester conduct inspection for CP as required. 265,182 respondents will have to spend .25 burden hours each at a cost of $12.16 per respondent to conduct inspection for impressed current. 224,417 respondents will have to maintain records at a cost of .10 burden hours each and a cost of $2.86 per respondent.

*Compatibility*

Owners and operators must notify the implementing agency at least 30 days prior to storing fuels containing more than 10 percent ethanol or more than 20 percent biodiesel, or any other regulated substance identified by the implementing agency. Owners and operators also must maintain records to demonstrate compatibility of the UST system when storing the following fuels: greater than 10 percent ethanol, greater than 20 percent biodiesel, or any other substance identified by the implementing agency. Owners and operators must maintain these records for as long as the UST system is used to store the regulated substance. (§280.32(b)). For USTs storing greater than 10% ethanol or greater than 20% biodiesel EPA estimates 213 respondents will have to spend .10 burden hours per respondent and $2.91 each to maintain records to demonstrate compatibility.

*Maintenance of Repair Records*

§280.33(d) requires tightness testing of UST systems with secondary containment within 30 days following the completion of repairs to the secondary containment areas. All other repairs to tanks and piping must be tightness tested within 30 days following the completion of the repair, except as provided in §§280.33(d)(1) through 280.33(d)(3). Repaired spill or overfill prevention equipment must be tested or inspected within 30 days to ensure it is operating properly §280.33(f). §280.33(g) requires owners and operators to maintain records of each repair until the UST system is permanently closed or undergoes a change-in-service. EPA estimates 17,780 respondents will have to spend .10 burden hours each and $209 per respondent to test UST systems with secondary containment within 30 days of a repair and maintain those records.

EPA estimates 13,308 respondents will have to spend .10 burden hours each and $398 per respondent to test spill prevention equipment within 30 days after a repair and maintain those records. EPA estimates 10,647 respondents will have to spend .10 burden hours each and $439 per respondent to inspect overfill prevention equipment within 30 days of a repair and maintain those records. EPA estimates 26,616 respondents will have to spend 1.10 burden hours each and $38.43 per respondent to gather information on each repair and maintain those records. Finally, EPA estimates that 5323 respondents will have to conduct tightness testing 30 days after a repair at a cost of .65 burden hours each and $635 per respondent.

*Periodic Testing/Inspection of Spill and Overfill Prevention Equipment and Containment Sumps Used for Interstitial Monitoring of Piping*

§280.35 requires owners and operators test/inspect spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping to ensure the equipment is operating properly and will prevent releases to the environment. These components must be tested/inspected at least once every three years. Records for testing or inspection must be maintained for three years. EPA estimates that 159,699 respondents will have to spend .10 burden hours each and $398 per respondent to test spill prevention equipment every 3 years and maintain those records. EPA estimates that 32,472 respondents will have to spend .10 burden hours each and $731 per respondent to test containment sumps used for interstitial monitoring of piping every three years and maintain those records. EPA estimates 177,443 respondents will have to spend .10 burden hours each and $439 per respondent to inspect overfill every three years and maintain those records.

*Periodic Operation and Maintenance Walkthrough Inspections*

§280.36 requires owners and operators conduct a walkthrough inspection of equipment: every 30 days for the items listed in §280.36(a)(1)(i) and annually for the items listed in §280.36(a)(1)(ii). Records must be maintained for one year (§280.36(b)). EPA estimates 196,431 respondents will have to spend 6.2 burden hours each and $19 per respondent to conduct walkthroughs of equipment every 30 days and maintain those records.

1. Subpart D: Release Detection

*General Requirements for All UST Systems*

§280.40 requires that owners and operators of UST systems provide a method of release detection that is operated and maintained in accordance with manufacturer’s instructions, a code of practice developed by a nationally recognized association or independent testing laboratory, or requirements developed by the implementing agency. In addition, §280.40 will require that a test of the proper operation be performed at least annually. EPA estimates 244,871 respondents will have to do ATG operability testing at a burden of 1.5 hours and $57 per respondent. EPA estimates 100,078 respondents will have to do operability testing for Interstitial monitoring at a burden of .25 hours and $10 per respondent. EPA estimates 23,955 respondents will have to do operability testing for groundwater and vapor monitoring at a burden of .25 hours and $10 per respondent. EPA estimates 146,664 respondents will have to do operability testing for line leak detectors at a burden of 1.5 hours and $57 per respondent.

§280.40 also provides that, when a release detection method indicates that a release may have occurred, owners and operators must notify the implementing agency in accordance with Subpart E.

Data items and respondent activities associated with release detection requirements are covered under §§280.43, 280.44, 280.45, and Subpart K. Data items and respondent activities associated with the reporting of suspected releases are covered in the subsequent section, “Release Reporting, Investigation, and Confirmation” (40 CFR Part 280, Subpart E).

*Release Detection for Tanks*

§280.43 specifies methods that UST owners and operators may use to meet the release detection requirements for tanks at §280.41(a). Additional information on each method is listed below. Owners and operators are required to record results of measurements or tests indicating whether a release has or has not occurred.

*For those facilities using inventory control owners and operators are required to keep records of inventory control according to* §*280.43(a). EPA estimates this requirement will not include any respondents during this period.* §*280.43(a) also requirement tightness testing for those systems using inventory control EPA estimates 1065 respondents will have a burden of 0.65 hours and $633 per respondent.*

*For those facilities using manual tank gauging weekly are required but EPA estimates there will not be burden for this period. EPA estimates 3194 respondents using manual tank gauging will have a burden of 0.65 hours and $633 pre respondent for completing the required tightness testing required under* §280.43(c).

*For those facilities using vapor monitoring EPA estimates 4533 respondents will have a burden of 1.67 hours and $797 per respondent to prepare the required monthly records of vapor monitoring within soil gas of the excavation zone under* §280.43(e).

*For those facilities using groundwater monitoring EPA estimates 4302 respondents will have a burden of 1.67 hours and $533 per respondent to maintain the required* monthly records of groundwater monitoring required by §280.43(f).

*For those facilities using Interstitial Monitoring EPA estimates 103,272 respondents will have a burden of .6 hours and $407 per respondent to maintain the required* monthly records of interstitial monitoring under §280.43(g).

*Release Detection for Piping*

§280.44 specifies methods that UST owners and operators may use to meet the release detection requirements for piping at §280.41(b). Owners and operators are required to conduct annual test of the operation of the automatic line leak detector and records the results. EPA estimates 438,852 respondents will have a burden of .3 hours and $11 per respondent to meet this requirement. Facilities must also conduct an annual line tightness test and record the results. EPA estimates 177,904 respondents will have 1.52 hours burden and $58 per respondent to meet this requirement.

*Release Detection Recordkeeping*

§280.45 requires that owners and operators maintain records that contain information about each release detection system in place at an UST system. EPA estimates 196,431 respondents will have 1 hour of burden and $27 per respondent to maintain these records.

1. Subpart E: Release Reporting, Investigation, and Confirmation

*Reporting of Suspected Releases and Cleanups of Spills and Overfills*

§280.50 requires owners and operators to report within 24 hours to the implementing agency if a release is suspected and the release exceeds 25 gallons (or for hazardous substances that exceed the reportable quantity), or if a smaller release cannot be cleaned up within 24 hours.

§§280.53(a) through (b) require owners and operators to immediately contain and clean up a spill or overfill, and to report certain releases. Owners and operators must report to the implementing agency within 24 hours, or another reasonable period specified by the implementing agency, in the following cases:

* Spill or overfill that results in a release to the environment exceeding 25 gallons or another reasonable amount as specified by the implementing agency, or that causes a sheen on nearby surface water (§280.53(a)(1)).
* Spill or overfill of a hazardous substance that equals or exceeds its reportable quantity under CERCLA (40 CFR Part 302) (§280.53(a)(2)).

In addition, owners and operators must contain and immediately cleanup a spill or overfill of petroleum that is less than 25 gallons or another reasonable amount specified by the implementing agency, and a spill of a hazardous substances that is less than the reportable quantity.

If cleanup cannot be accomplished within 24 hours, or another reasonable period specified by the implementing agency, owners and operators must immediately notify the implementing agency. EPA estimates that 10,000 respondents will have to gather information and report the suspected release under subpart E. Each respondent will have a burden of 56.2 hours and $5352 to meet these requirements.

1. Subpart F: Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances

*Initial Response*

Upon confirmation of a release in accordance with §280.52 or another procedure, owners and operators must conduct initial response actions within 24 hours of a release or within another reasonable period determined by the implementing agency. The initial response is a release report, which may be submitted to the implementing agency by telephone or electronic mail (§280.61(a)). EPA estimates that 6000 respondents will have a burden of one hour and $51 each to meet the requirements of §280.52.

*Initial Abatement Measures Report and Site Check*

§280.62(b) requires owners and operators to submit within 20 days, or another reasonable period determined by the implementing agency, a report summarizing initial abatement steps taken and any resulting information or data in accordance with §280.62(a). EPA estimates that 6000 respondents will have to gather information during initial abatement, prepare and submit summary report of initial abatement steps and prepare and submit summary report of initial abatement steps. EPA estimates that each respondent will have a burden of 51 hours and $3449 to meet these requirements.

*Initial Site Characterization*

§280.63 requires owners and operators to assemble information about the site and the nature of the release, including information from initial abatement measures in §§280.60 and 280.61. Under §280.63(b), the information collected must be submitted to the implementing agency within 45 days of the release confirmation or another reasonable period of time determined by the implementing agency, in a manner that demonstrates its applicability and technical adequacy, or in a format and according to the schedule required by the implementing agency. EPA estimates that 6000 respondents will have to gather information for initial site characterization and prepare and submit information per instructions to meet the requirements of §280.63. EPA estimates that each respondent will have a burden of 100 hours and $8290 to meet these requirements.

*Free Product Removal*

§280.64 requires owners and operators to remove free product to the maximum extent practicable if investigations under §280.62(a)(6) indicate removal is warranted. Under §280.64(d), owners and operators must assemble information and prepare and submit a free product removal report within 45 days after confirmation of a release. EPA estimates 1200 respondents will have to gather information for the free product removal report and prepare and submit the report to meet the requirements of §280.64. EPA estimates that each respondent will have a burden of 69.25 hours and $3334 to meet these requirements.

*Investigations for Soil and Groundwater Cleanup*

§280.65 requires owners and operators to conduct investigations of soil and groundwater if any of the following conditions exist: (1) there is evidence that groundwater wells have been affected; (2) free product is found; (3) there is evidence of contaminated soils in contact with groundwater; or (4) there are potential effects of soil or groundwater on nearby surface water and groundwater resources. Under §280.65(b), owners and operators must submit information covering the release, the release site and the area affected by the release after investigating the impacts of the release on the soils and groundwater. The information must be collected and submitted within a reasonable time established by the implementing agency if the conditions in §§280.65(a)(1) through (4) exist. EPA estimates that 4500 respondents would have to gather information for the investigation report and submit this information. EPA estimates each respondent would have a burden of 114.25 hours and $7897 to meet these requirements.

*Corrective Action Plan*

§280.66 specifies corrective action requirements for USTs. The implementing agency may require owners and operators to submit additional information or a corrective action plan for responding to contaminated soils or groundwater. Upon approval, owners and operators must implement the plan and report the results of implementation. In addition, to keep contamination at a site to a minimum, owners and operators may begin cleanup prior to plan approval by notifying the implementing agency of the intention to begin cleanup and including the cleanup measures in the corrective action plan, provided they comply with any conditions imposed by the implementing agency and incorporate self-initiated cleanup measures into the corrective action plan. EPA estimates 3600 respondents would have to prepare and submit corrective action plan or additional information and report results of implementing plan to meet the requirements of §280.66. EPA estimates each respondent would have a burden of 210 hours and $10,654 to meet these requirements. In addition, EPA estimates 360 respondents will notify the implementing agency of early cleanup at a burden of .5 hours and $34 per respondent to meet this requirement.

1. Subpart G: Out-of-Service UST Systems and Closure

*Permanent Closure and Changes-in-Service Notification*

§280.71(a) requires that owners and operators notify the implementing agency of any decision to permanently close or make a change-in-service at an UST system. The notification must be made at least 30 days prior to beginning permanent closure or change-in-service actions. The notification can be made using the general notification form, available on EPA’s website (<https://www.epa.gov/ust/notification-forms-underground-storage-tanks>). After notification, but before completing a closure or change-in-service, the owner or operator must complete an excavation zone assessment under §280.72(a). EPA estimates 10,047 respondents will have to notify the implementing agency of permanent closure or change-in-service and conduct site assessment of excavation zone to meet the requirements of §280.71(a) and §280.72(a). EPA estimates each respondent will have a burden of 67 hours and $5520 to meet these requirements.

*Closure Records*

§280.74 requires owners and operators to maintain records in accordance with section 280.34 that can show compliance with closure requirements. Owners and operators also are required to maintain results of the excavation zone assessment required in section 280.72 for at least three years after completion of permanent closure or change-in-service. EPA estimates 10,047 respondents will have to maintain records after permanent closure or change-in-service for at least three years. Each respondent will have a burden of .10 hours and $2.86 to meet this requirement. In addition, EPA estimates 2475 respondents will have to mail records to implementing agency because the records cannot be maintained on site. Each of these respondents will have a burden of .5 hours and $19.75.

1. Subpart H: Financial Responsibility

*Financial Responsibility Mechanisms*

40 CFR Part 280, Subpart H financial responsibility requirements apply to all owners and operators of petroleum USTs, except those exempted in §280.90(d).

Owners and operators may use any one or a combination of the mechanisms listed in §§280.95 through 280.103 to demonstrate financial responsibility. In addition to these options, a local government operator may use any one or a combination of the mechanisms listed in §§280.104 through 280.107. Each of these options is described in detail below.

*Cancellation or Nonrenewal by a Provider of Financial Assurance*

A provider of financial assurance may cancel or fail to renew an assurance mechanism according to the procedures outlined in §280.109. The data item associated with such an action is a notice of termination, which is submitted to the UST owner or operator. If alternate financial coverage is not obtained within 60 days of being notified of the termination, owners or operators must inform the implementing agency of the failure to obtain coverage. EPA estimates 3929 respondents will have to prepare and submit a notice of termination of financial assurance. Each respondent will have a burden of 1 hour and $63 to meet this requirement. In addition, EPA estimates that 393 respondents will have to prepare and submit notice of failure to obtain alternative coverage within 60 days. Each respondent will have a burden of 1.75 hours and $79 to meet this requirement.

*Reporting and Recordkeeping Requirements*

§280.110 establishes financial responsibility reporting requirements for owners and operators who: (1) identify a reportable UST release; or (2) fail to obtain alternative coverage. §280.111(b)(11) requires an owner or operator to maintain an updated copy of a certification of financial responsibility, as worded in §280.111(b)(11)(i). The individual reporting and record keeping requirement burden estimates are listed below for the various requirements.

Financial Test of Self Assurance - §280.95 outlines the procedures for a financial test of self-assurance as a means of satisfying the financial responsibility requirements. Owners and operators have the option of meeting the criteria specified in either §280.95(b) or 280.95(c).

Guarantee - §280.96 outlines the procedures for obtaining a guarantee as a means of satisfying the financial responsibility requirements.

Insurance and Risk Retention Group Coverage - §280.97 outlines the procedures for obtaining liability insurance as a means of satisfying the financial responsibility requirements.

Surety Bond - §280.98 outlines the procedures for obtaining a surety bond as a means of satisfying the financial responsibility requirements.

Letter of Credit - §280.99 outlines the procedures for obtaining a letter of credit as a means of satisfying the financial responsibility requirements.

Use of State-Required Mechanisms - §280.100 allows UST owners and operators in states without program approval to satisfy the requirements of §280.93 by using a state-required financial mechanism, if approved by EPA. The owner or operator, state, or any other party may request approval.

State Fund or Other State Assurance - §280.101 allows UST owners and operators in states without program approval to satisfy the requirements of §280.93 by using a state fund or other state assurance, if approved by EPA. To satisfy the requirements of §280.93, the owner or operator must obtain a letter or certificate from the state.

Trust Fund - §280.102 outlines the procedures for using a trust fund as a means of satisfying the financial responsibility requirements.

Standby Trust Fund - §280.103 outlines the procedures for using a standby trust fund as a means of satisfying the financial responsibility requirements. Owners and operators using mechanisms described in §280.96, §280.98, and §280.99 must establish a standby trust fund in addition to satisfying the other requirements of those sections.

Local Government Bond Rating Test - §280.104 states that a general-purpose local government owner or operator and/or a local government as a guarantor may satisfy the requirements of §280.93 by having outstanding issues of bonds of $1 million or more.

Local Government Financial Test - §280.105 states that a local government UST owner or operator may satisfy the requirements of §280.93 by passing a financial test.

Local Government Guarantee - A local government owner or operator may satisfy the requirements of §280.93 by obtaining a guarantee as specified in §280.106. The guarantor must be the state in which the local government owner or operator is located or a local government having a “substantial governmental relationship” with the owner or operator.

Local Government Fund - §280.107 states that a local government owner or operator may satisfy the requirements of §280.93 by establishing a dedicated fund account. The fund is dedicated to pay for corrective action and for compensating third parties in the event of accidental releases from petroleum USTs.

Substitution of Financial Assurance Mechanisms by the Owner or Operator -§280.108(b) states that an owner or operator may cancel a financial assurance mechanism after obtaining alternate financial assurance.

EPA estimates 6000 respondents will have to gather and submit forms listed in Section 280.110(a)1 to the implementing agency documenting current evidence of financial responsibility per 289.110(b) as a result of a release. Each respondent will have a burden of .25 hours and $8.76 to meet this requirement. EPA estimates 196,431 respondents will have to obtain and keep on file proof of financial responsibility. Each respondent will have a burden of .35 hours and $12.47 to meet this requirement. EPA estimates 49,108 respondents will have to update certification if financial assurance mechanism is modified. Each respondent will have a burden of .75 hours and $26 to meet this requirement.

*Bankruptcy or Other Incapacity*

§280.114 sets forth notification requirements regarding bankruptcy or other incapacities for UST owners and operators, and providers of financial assurance. Data items associated with these requirements must be submitted within 10 days after commencement of bankruptcy proceedings. EPA estimates 1964 respondents will have to prepare and submit notification of commencement of bankruptcy procedures. Each respondent will have a burden of 1.5 hours and $113 to meet this requirement. EPA estimates that 196 respondents will have to prepare and submit notice of inability to obtain alternative coverage within 30 days. Each respondent will have a burden of 1.75 hours and $79 to meet this requirement.

1. Subpart J: Operator Training

40 CFR Part 280, Subpart J requires that all owners and operators of UST systems designate Class A, Class B, and Class C operators for each facility. Operators must complete a training program or an examination. §280.245 requires owners and operators to maintain records verifying that training and retraining, as applicable, have been completed. EPA estimates 45,772 respondents will have to complete a Class A operator training program or an examination per 280.242. Each respondent will have a burden of 10 hours and $836. EPA estimates 45,772 will also have to complete a Class B operator training program or an examination per 280.242. Each respondent will have a burden of 10 hours and $580 to meet this requirement. EPA estimates 237,293 respondents will have to complete a Class C operator training program or an examination per 280.242. Each respondent will have a burden of 4 hours and $120 to meet this requirement.

1. Subpart K: Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems

Subpart K requires owners and operators of field-constructed tanks (FCTs) and airport hydrant fuel distribution systems (AHFDSs) comply with Subparts A through H and J, with certain exceptions. The information collection requirements of Subparts A through H and J are described under those respective subparts.

In addition, Subpart K also requires owners of FCTs and AHFDSs to submit a one-time notice of tank system existence within one year of the effective date of the revised regulations. EPA estimates that 3 number of facilities will need to submit this one-time notification. EPA estimates associated burden for this requirement to be .5 hours and $50 per respondent.

**State Agency Respondents**

Regulations at 40 CFR Part 281 contain state program approval procedures for states that wish to administer their own UST programs in lieu of the federal program. A state must obtain approval for its program from EPA. Part 281 is divided into six subparts (i.e., Subparts A through F), four of which contain information collection requirements. This ICR summarizes the information collection requirements and the associated data items and respondent activities, in the order in which they appear in Part 281, in the following subparts:

* Components of a program application (Subpart B);
* Adequate enforcement of compliance (Subpart D);
* Approval procedures (Subpart E); and
* Withdrawal of approval of state programs (Subpart F).

1. Components of a Program Application (Subpart B)

*Transmittal Letter*

§281.20(a) states that any state seeking to administer its own UST program must submit in its application a transmittal letter from the governor of the state requesting program approval (§281.20(a)). EPA estimates that 2 states will have to obtain a transmittal letter from the Governor’s office and transmit it to the agency. EPA estimates associated burden to be 25.5 hours and $2011 per respondent

*Description of State Program*

§§281.20(b) and 281.21 outline that any state seeking to administer its own UST program must submit in its application a description of the program that the state plans to implement in place of the federal program. EPA estimates that 2states will have to prepare a submit a description of the state program. EPA estimates associated burden to be 90.5 hours and $6585 per respondent.

*Procedures for Adequate Enforcement*

§281.22 states that any state seeking to administer its own UST program must submit in its application a description of compliance monitoring and enforcement policies and procedures, including judicial review procedures (§§281.22 and 281.20(c)). EPA estimates that 2 states will have to gather and submit information on compliance monitoring and enforcement procedures. EPA estimates associated burden to be 90.5 hours and $6026 per respondent.

*Memorandum of Agreement*

§281.24 states that any state seeking to administer its own UST program must negotiate areas of coordinated effort and responsibilities with EPA. EPA estimates that 2 states will have to negotiate an MOA with EPA and prepare and submit written MOA with SPA application. EPA estimates associated burden to be 15.5 hours and $1312 per respondent.

*Attorney General’s Statement*

§281.25 states that any state seeking to administer its own UST program must submit a written demonstration from the attorney general stating that the laws of the state are sufficiently stringent to enforce the state program proposed. The statement must include citations to statutes, regulations, judicial decisions, and analysis of any state authority to regulate USTs on Indian lands (§§281.25 and 281.20(f)). EPA estimates that 2 states will draft and submit statement from the attorney general. EPA estimates associated burden to be 225 hours and $16,739 per respondent.

*Copies of Statutes and Regulations*

§281.20(g) states that any state seeking to administer its own UST program must submit in its application copies of all applicable state statutes and regulations (§281.20(g)). EPA estimates that 2 states will have to research and gather statutes and regulations and submit copies as a part of the application to EPA. EPA estimates associated burden to be 94 hours and $6744 per respondent.

1. Adequate Enforcement and Compliance (Subpart D)

§281.43(a) requires states with approved programs to furnish to EPA, at any time, information in state files on the administration of the program, including data on enforcement and compliance under section 281.40. This includes information submitted to the state with or without a claim of confidentiality (§281.43(a)). EPA estimates that 42 states will have to maintain files and current information on program administration. EPA estimates associated burden to be 59 hours and $4324 per respondent. EPA estimates that 2 states will also have to submit information to EPA. EPA estimates associated burden to be .10 hours and $26 per respondent.

1. Approval Procedures (Subpart E)

§281.50(b) specifies that before submitting an application to EPA for approval of a state program, states must provide an opportunity for public notice and comment. EPA estimates that 2 states will have to issue public notice of the development of underground storage tank program and receive and review public comments. EPA estimates associated burden to be 52 hours and $4386 per respondent.

§§281.52(a) through (b) specifies program revision requirements that may be initiated by either EPA or the approved state. EPA estimates that 4 states will have to collect and submit information on changes in regulations or shifts in responsibilities and prepare and submit revised application to EPA. EPA estimates the associated burden to be 694 hours and $50,849 per respondent.

1. Withdrawal of approval of state programs (Subpart F).

§281.60 and §281.61 specifies the process for withdrawl of approval of a state program. EPA estimates zero withdraws of approved state programs, so there is no cost associated with this regulation.

**12c. Respondent Activities**

Respondent activities are included in section 12b above.

**12d. Respondent Burden Hours and Labor Costs**

EPA estimates respondent costs for all activities covered in this ICR in Table 3. These costs are based on the cost of labor, capital, and operation and maintenance (O&M) activities. Table 3 summarizes the total annual hour and cost burden to UST owners and operators and to states. EPA estimates the annual respondent burden to be approximately 8,332,975hours and $406 million.

**Table 3**

**Total Estimated Annual Respondent Hour and Cost Burden Summary**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  | **Total** |  | **Capital/** |  | **Total** |
|  | **Hours/** | **Labor** | **Startup** | **O & M** | **Cost/** |
| **Information Collection Activity** | **Year** | **Cost** | **Cost** | **Cost** | **Year** |
| Owner and Operator Respondents | 8,326,360 | $283,205,952 | $45,000,141 | $361,005,910 | $689,212,003 |
| State Agency Respondents | 6,615 | $477,244 | $0 | $439 | $477,683 |
| TOTAL | 8,332,975 | $283,683,196 | $45,000,141 | $361,006,349 | $689,689,686 |
| \* Due to rounding, figures may not sum exactly. | |  |  |  |  |

Table 4 shows the estimated average hourly labor cost (including overhead and fringe), by labor category, for facilities/contractors, commercial AHFDS facilities, and states. These labor rates were used to calculate the labor cost to all respondents in conducting the reporting and recordkeeping activities covered in this ICR, as shown in Table 3.

**Table 4**

**Estimated Average Hourly Respondent Labor Cost, by Labor Category**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Respondent** | **Legal** | **Managerial** | **Technical** | **Clerical** |
| Facilities/Contractors | $138.68 | $63.97 | $38.44 | $27.29 |
| Commercial AHFDS Facilities | $238.74 | $135.67 | $68.10 | $45.35 |
| States | $101.82 | $109.53 | $65.29 | $34.41 |

For all labor categories, EPA obtained the labor costs from the previously approved ICR and updated the labor rates to 2022 levels using Employment Cost Indexes developed by the U.S. Bureau of Labor Statistics.

1. **Respondent CAPITAL AND O&m CostS**

*Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).*

*The cost estimate should be split into two components: (a) a total capital and start-up cost*

*component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should consider costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling, and testing equipment; and record storage facilities.*

*If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate.*

*Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.*

Respondent O&M Costs are included in section 12 above.

1. **AGENCY** **COSTS**

*Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.*

EPA estimates the Agency hour and cost burden associated with all information collection requirements covered in this ICR in Tables 5. EPA estimates an average hourly labor cost of $117 for legal staff (GS-15, Step 5), $74 for managerial staff (GS-13, Step 1), $52 for technical staff (GS-11, Step 1), and $32 for clerical staff (GS-6, Step 1). To derive these hourly estimates, EPA referred to unloaded (base) hourly rates for various labor categories in the federal government from the U.S. Office of Personnel Management.[[1]](#footnote-3) EPA then applied the standard government loading factor of 60 percent, which includes fringe benefits and overhead.

Table 5 summarizes the total annual Agency hour and cost burden associated with the requirements covered in this ICR. As shown in the exhibit, EPA estimates the annual Agency burden to be approximately 412,845 hours and $26.9 million. The bottom-line burden to the Agency over three years is estimated to be approximately 1.2 million hours and $80 million.

**Table 5**

**Total Estimated Annual Agency Hour and Cost Burden Summary**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Information Collection Activity | Total Hours/Year | Labor Cost | Capital/Startup Cost | O&M Cost | Total Cost/Year |
| Technical and Financial Requirements | 412,588 | $26,869,482 | $0 | $14,605 | $26,884,087 |
| State Program Approval | 257 | $19,838 | $0 | $8 | $19,846 |
| TOTAL | 412,845 | $26,889,320 | $0 | $14,613 | $26,903,933 |

\*Due to rounding, figures may not sum exactly.

1. **REASONS FOR CHANGE IN BURDEN**

*Explain the reasons for any program changes or adjustments reported in the burden or capital/O&M cost estimates.*

This ICR presents a comprehensive description of the total annual respondent burden for all information collection activities related to the UST program. In renewing this ICR, EPA has updated its respondent universe and burden estimates based on updated data from the Office of Underground Storage Tanks (OUST) and the regulated community. Table 6 summarizes the change in burden from the previous ICR to the requested ICR. The total number of active USTs continues to decline as it has for decades. There is a decrease of 389,217 hours in the total estimated respondent burden hours compared with the ICR currently approved by OMB. There is a total decrease in burden hours because the overall number of underground storage tanks continues to decrease while the requirements for each tank owner remained the same.

**Table 6**

**Change in Burden from Previous ICR**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Previously Approved**  **(1360.17)** | **Change** | **Requested**  **(1360.18)** |
| **Responses** | 415,610 | -18,354 | 397,256 |
| **Hours** | 8,722,192 | -389,217 | 8,332,975 |
| **Cost** | $424,720,745 | -$18,714,255 | $406,006,490 |

1. **PUBLICATION OF** **DATA**

*For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

The results of the collections of information will not be published.

1. **DISPLAY OF EXPIRATION DATE**

*If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

EPA is not seeking approval to not display the expiration date for OMB approval of the information collection.

1. **CERTIFICATION STATEMENT**

*Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”*

There are no exceptions to the topics of the certification statement.

1. U.S. Office of Personnel Management. Locality pay area of Washington-Baltimore-Northern Virginia, DC-MD-VA-WV-PA. Salary Table 2022-DCB (effective January 2022); available at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/2022/general-schedule/> [↑](#footnote-ref-3)