

What are the underground storage tank (UST) financial responsibility (FR) requirements?

Financial responsibility means that if you own or operate a regulated petroleum UST system, you must ensure, either through insurance or other means, that there will be money available for:

- Cleanup of environmental damage caused by a spill or leak, and
- Third party claims of bodily injury and/or property damage resulting from a release from your UST systems.

The UST FR requirements are described in Title 15A of the North Carolina Administrative Code, Subchapter 2O entitled "Financial Responsibility Requirements for Owners and Operators of USTs". The state rules are based on federal financial responsibility requirements.

When do I have to comply with the FR requirements?

The FR requirements are not new. They became effective July 1, 1992. Financial responsibility must be maintained from the time a regulated petroleum UST system is installed until it is permanently closed and all required corrective action is complete.



Who needs to meet the FR requirements?

- A tank owner or operator must meet the requirements. If the owner and the operator are separate people, only one is required to demonstrate financial responsibility. It is up to the owner and operator to decide which of them will meet the requirements.
- Local government agencies must meet the requirements.
- Federal and state government agencies *do not* have to meet the requirements.

What kinds of UST systems must meet the FR requirements?

Only regulated petroleum UST systems must meet the requirements.

Examples of UST systems that must meet the requirements include those that store motor fuel for resale or business use, farm USTs greater than 1,100 gallons that store motor fuel, most emergency generator USTs, oil-water separator USTs that are not regulated under the Clean Water Act, waste oil USTs, and USTs that store heating oil for resale or for use off the premises where stored.* Also, regulated petroleum UST systems that are temporarily closed must meet the FR requirements.

*These are just some examples. This is not an all-inclusive list of the UST systems that must meet the requirements. For tanks not listed, call the UST Section.

What do I have to do to comply with the FR requirements?

- 1) Pay your mandatory annual tank operating fees into the North Carolina UST financial assurance fund (hereafter referred to as the "state fund") as required by the state fund statutes.*
- 2) Demonstrate that you can pay the state fund deductibles.**

*Paying annual tank operating fees entitles you, provided other eligibility requirements are also met, to be reimbursed with state fund money for costs to cleanup environmental contamination or to pay for



third party liability once the state fund deductibles are met. When a release occurs, the state fund reimburses for reasonable and necessary cleanup and third-party liability costs in excess of the deductibles up to \$1.5 million, with a 20 percent co-payment for costs greater than \$1 million.

**State fund deductibles for an upgraded UST (a UST that meets the 1998 standards for corrosion, spill, and overfill protection) are \$20,000 for cleanup and \$100,000 for third-party liability.

I know about paying tank fees, but how can I demonstrate that I can pay the state fund deductibles?

You demonstrate that you can pay the state fund deductibles by assuring a certain amount of money with certain financial mechanisms.

Amount of Assurance: Add three numbers to determine the amount of money you need to assure for all your tanks in North Carolina. These numbers are the state fund cleanup deductible for upgraded USTs (\$20,000), the state fund third-party liability deductible (\$100,000), and a number that is called the "scaling factor." The scaling factor is \$600 per tank. In determining the amount of money to assure, tanks manifolded together are considered separate tanks, and a compartment tank is considered one tank.*

*For example, if you have two (2) tanks in North Carolina, the total amount of money you need to

assure is \$121,200. As another example, if you have twenty-five (25) tanks in North Carolina, the total amount of money you need to assure is \$135,000.

Mechanisms: Use any one or combination of seven mechanisms to assure the required amount of money. These mechanisms are self-insurance,** corporate guarantee,** insurance and risk retention group, surety bond, letter of credit, trust fund, and insurance pool. Local governments have four additional mechanisms they may use. These mechanisms are local government bond rating test, local government financial test, local government guarantee, and local government fund.

**Only incorporated businesses may use the self-insurance and corporate guarantee mechanisms. A business organized as a sole-proprietorship or partnership cannot use the self-insurance and corporate guarantee mechanisms.

What are the FR record-keeping and reporting requirements?

You must keep FR documents at your UST site or place of business. The records need to be maintained until the UST system is permanently closed. You must submit FR documents to the UST Section upon request by the UST Section, or within 30 days after discovering a release from the UST.

Both mechanism-specific and general FR documents must be maintained:

- Mechanism-Specific Documents: Specific documents must be maintained for each of the financial mechanisms. All of the required documents for the mechanisms are in the North Carolina UST FR Manual. For ease of use, the UST Section has developed forms for the more common mechanisms (e.g., Chief Financial Officer Letter for Self-Insurance) that you can use instead. These may be found at <http://www.wastnotnc.org/ust/guidance.html> under "Financial Responsibility."
- General Document: No matter which financial mechanism(s) you use, you must maintain, in

addition to any mechanism-specific documents, a certification of financial responsibility worded the same as the certification of financial responsibility in Appendix M of the North Carolina UST FR Manual. The Certification of Financial Responsibility Form can also be found at <http://www.wastnotnc.org/ust/guidance.html> under "Financial Responsibility."

If I am in compliance with the federal FR requirements, am I also in compliance with the North Carolina FR requirements?

Yes. The North Carolina requirements incorporate the federal requirements with some modifications. Even considering the modifications, if you are in compliance with the federal requirements, you are also in compliance with the North Carolina requirements.

Questions?

More specific information on these regulations can be found in 15A NCAC 20, the Financial Responsibility FAQ, the FR Manual and the FR forms all of which can be found on the UST Section website at http://www.wastnotnc.org/ust/ust_main.html. If you have any other questions, please contact the UST Section Central Office at (919) 733-8303.



Financial Responsibility Requirements for Underground Storage Tanks



N.C. Department of Environment and Natural Resources

***Division of Waste Management
UST Section***