an inspector to immediately determine
the integrity of the piping system.

(e) Requirements for hazardous sub-
stance UST systems. All UST systems
storing hazardous substances must
meet the following:

(1) All existing hazardous substance
UST systems must comply with all the
requirements for petroleum UST sys-
tems in paragraphs (c) and (d) of this
section and after December 22, 1998,
they must comply with the following
paragraph (e)(2) of this section.

(2) All new hazardous substance UST
systems must use interstitial moni-
toring within secondary containment
of the tanks and the attached under-
ground piping that conveys the regu-
lated substance stored in the tank, un-
less the owner and operator can dem-
onstrate to the state (or the state oth-
erwise determines) that another meth-
od will detect a release of the regulated
substance as effectively as other meth-
ods allowed under the state program
for petroleum UST systems and that
effective corrective action technology
is available for the hazardous sub-
stance being stored that can be used to
protect human health and the environ-
ment.

§ 281.34 Release reporting, investiga-
tion, and confirmation.

In order to be considered no less
stringent than the corresponding fed-
eral requirements for release reporting,
investigation, and confirmation, the
state must have requirements that en-
sure all owners and operators conform
with the following:

(a) Promptly investigate all sus-
pected releases, including:

(1) When unusual operating condi-
tions, release detection signals and en-
vironmental conditions at the site sug-
gest a release of regulated substances
may have occurred; and

(2) When required by the imple-
menting agency to determine the
source of a release having an impact in
the surrounding area; and

(b) Promptly report all confirmed un-
derground releases and any spills and
overfills that are not contained and
cleaned up.

(c) Ensure that all owners and oper-
ators contain and clean up unreported
spills and overfills in a manner that
will protect human health and the en-
vironment.

§ 281.35 Release response and correc-
tive action.

In order to be considered no less
stringent than the corresponding fed-
eral requirements for release response
and corrective action, the state must
have requirements that ensure:

(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 in-
clude investigation and initiation of
free product removal, if present);

(c) All releases from UST systems are
investigated to determine if there are
impacts on soil and ground water, and
any nearby surface waters. The extent
of soil and ground water contamination
must be delineated when a potential
threat to human health and the envi-
ronment exists.

(d) All releases from UST systems are
cleaned up through soil and ground
water remediation and any other steps,
as necessary to protect human health
and the environment;

(e) Adequate information is made
available to the state to demonstrate
that corrective actions are taken in ac-
cordance with the requirements of
paragraphs (a) through (d) of this sec-
tion. This information must be sub-
mitted in a timely manner that dem-
onstrates its technical adequacy to
protect human health and the environ-
ment; and

(f) In accordance with § 280.67, the
state must notify the affected public of
all confirmed releases requiring a plan
for soil and ground water remediation,
and upon request provide or make
available information to inform the in-
terested public of the nature of the re-
lease and the corrective measures
planned or taken.

§ 281.36 Out-of-service UST systems
and closure.

In order to be considered no less
stringent than the corresponding fed-
eral requirements for temporarily
closed UST systems and permanent
Environmental Protection Agency

§ 281.39 Lender liability.

(a) 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:

- (3) Owners and operators of 1 to 100 petroleum USTs must have an annual aggregate of $1 million; and
- (4) Owners and operators of 101 or more petroleum USTs must have an annual aggregate of $2 million.

(b) Phase-in of requirements. Financial responsibility requirements for petroleum UST systems must, at a minimum, be scheduled to be applied at all UST systems on an orderly schedule that completes a phase-in of the financial responsibility requirements within the time allowed in the Federal regulations under 40 CFR 280.91.

(c) 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 mechanism 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.

(d) States must require owners and operators to maintain records that demonstrate compliance with the state financial responsibility requirements, and these records must be made readily available when requested by the implementing agency.


§ 281.38 Financial responsibility for USTs containing hazardous substances. [Reserved]

§ 281.37 Financial responsibility for UST systems containing petroleum.

(a) In order to be considered no less stringent than the federal requirements for financial responsibility for UST systems containing petroleum, the state requirements for financial responsibility 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;

(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.