United States Environmental Protection Agency

FISCAL YEAR 2023

Justification of Appropriation Estimates for the Committee on Appropriations

Tab 09: Leaking Underground Storage Tanks

EPA-190-R-22-001

April 2022
www.epa.gov/cj

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APPROPRIATION: Leaking Underground Storage Tanks
Resource Summary Table

(Dollars in Thousands)

	FY 2021 Final Actuals	FY 2022 Annualized CR	FY 2023 President's Budget	FY 2023 President's Budget v. FY 2022 Annualized CR
Leaking Underground Storage Tanks				
Budget Authority	$92,830	$92,203	$93,814	$1,611
Total Workyears	43.6	46.6	46.6	0.0

Bill Language: Leaking Underground Storage Tanks

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by subtitle I of the Solid Waste Disposal Act, $93,814,000, to remain available until expended, of which $67,145,000 shall be for carrying out leaking underground storage tank cleanup activities authorized by section 9003(h) of the Solid Waste Disposal Act; $26,669,000 shall be for carrying out the other provisions of the Solid Waste Disposal Act specified in section 9508(c) of the Internal Revenue Code: Provided, That the Administrator is authorized to use appropriations made available under this heading to implement section 9013 of the Solid Waste Disposal Act to provide financial assistance to federally recognized Indian tribes for the development and implementation of programs to manage underground storage tanks.

Note — A full-year 2022 appropriation for this account was not enacted at the time the Budget was prepared; therefore, the Budget assumes this account is operating under the Continuing Appropriations Act, 2022 (Division A of Public Law 117-43, as amended). The amounts included for 2022 reflect the annualized level provided by the continuing resolution.

Program Projects in LUST

(Dollars in Thousands)

Program Project	FY 2021 Final Actuals	FY 2022 Annualized CR	FY 2023 President's Budget	FY 2023 President's Budget v. FY 2022 Annualized CR
Enforcement				
Civil Enforcement	$625	$620	$653	$33
Operations and Administration				
Central Planning, Budgeting, and Finance	$343	$416	$448	$32

Program Project	FY 2021 Final Actuals	FY 2022 Annualized CR	FY 2023 President's Budget	FY 2023 President's Budget v. FY 2022 Annualized CR
Facilities Infrastructure and Operations	$932	$836	$724	-$112
Acquisition Management	$245	$132	$132	$0
Subtotal, Operations and Administration	$1,520	$1,384	$1,304	-$80
Underground Storage Tanks (LUST / UST)				
LUST / UST	$9,561	$9,470	$9,811	$341
LUST Cooperative Agreements	$55,438	$55,040	$55,040	$0
LUST Prevention	$25,383	$25,369	$26,669	$1,300
Subtotal, Underground Storage Tanks (LUST / UST)	$90,382	$89,879	$91,520	$1,641
Research: Sustainable Communities				
Research: Sustainable and Healthy Communities	$303	$320	$337	$17
TOTAL LUST	**$92,830**	**$92,203**	**$93,814**	**$1,611**

Enforcement

Civil Enforcement

Program Area: Enforcement
Goal: Enforce Environmental Laws and Ensure Compliance
Objective(s): Hold Environmental Violators and Responsible Parties Accountable

(Dollars in Thousands)

	FY 2021 Final Actuals	FY 2022 Annualized CR	FY 2023 President's Budget	FY 2023 President's Budget v. FY 2022 Annualized CR
Environmental Programs & Management	$164,888	$168,341	$210,011	$41,670
Leaking Underground Storage Tanks	***$625***	***$620***	***$653***	***$33***
Inland Oil Spill Programs	$2,532	$2,413	$2,538	$125
Total Budget Authority	$168,045	$171,374	$213,202	$41,828
Total Workyears	908.0	916.2	1,004.2	88.0

Program Project Description:

The Civil Enforcement Program's goal is to ensure compliance with the Nation's environmental laws to protect human health and the environment. The Program collaborates with the United States Department of Justice, and state, local, and tribal governments to ensure consistent and fair enforcement of environmental laws and regulations. The Civil Enforcement Program develops, litigates, and settles administrative and civil judicial cases against violators of environmental laws.

To protect the Nation's groundwater and drinking water from petroleum and hazardous substance releases from Underground Storage Tanks (UST), the Civil Enforcement Program provides guidance, technical assistance, and training to promote and enforce cleanups at sites with UST systems.[1] The Enforcement and Compliance Assurance Program uses its Leaking Underground Storage Tanks (LUST) resources to oversee cleanups by responsible parties.

FY 2023 Activities and Performance Plan:

Work in this program directly supports Goal 3/Objective 3.1, Hold Environmental Violators and Responsible Parties Accountable in the *FY 2022 - 2026 EPA Strategic Plan*.

In FY 2023, EPA will work with states and tribes on a case-by-case basis to prioritize LUST enforcement goals for cleanup. The Agency also will continue to provide guidance, technical assistance, oversight, and training to enforce cleanups at LUST sites by responsible parties.

Performance Measure Targets:

Work under this program supports performance results in the Civil Enforcement Program under the EPM appropriation.

[1] For more information, please refer to: https://www.epa.gov/ust.

FY 2023 Change from FY 2022 Annualized Continuing Resolution (Dollars in Thousands):

- (+$33.0) This change to fixed and other costs is an increase due to the recalculation of base workforce costs for existing FTE due to annual payroll increases, adjustments to provide essential workforce support, and changes to benefits costs.

Statutory Authority:

Reorganization Plan No. 3 of 1970, 84 Stat. 2086, as amended by Pub. L. 98–80, 97 Stat. 485 (codified at Title 5, App.) (EPA's organic authority); Subtitle I of the Solid Waste Disposal Act.

Operations and Administration

Acquisition Management

Program Area: Operations and Administration
Cross-Agency Mission and Science Support

(Dollars in Thousands)

	FY 2021 Final Actuals	FY 2022 Annualized CR	FY 2023 President's Budget	FY 2023 President's Budget v. FY 2022 Annualized CR
Environmental Programs & Management	$30,623	$32,247	$40,017	$7,770
Leaking Underground Storage Tanks	***$245***	***$132***	***$132***	***$0***
Hazardous Substance Superfund	$23,380	$23,800	$32,345	$8,545
Total Budget Authority	$54,248	$56,179	$72,494	$16,315
Total Workyears	275.1	285.7	355.7	70.0

Program Project Description:

Leaking Underground Storage Tank (LUST) resources in the Acquisition Management Program support the Agency's contract activities.

FY 2023 Activities and Performance Plan:

Work in this program provides Cross-Agency Mission and Science Support and is allocated across strategic goals and objectives in the *FY 2022 - 2026 EPA Strategic Plan*.

In FY 2023, EPA will continue to process contract actions in accordance with Federal Acquisition Regulation and guidance from the Office of Management and Budget Office of Federal Procurement Policy. Acquisition Management resources in LUST support information technology needs and the training and development of EPA's acquisition workforce.

EPA must scale up its federal grants and contractor workforce to support underserved communities, ensure the future is Made in All of America, and manage global supply chains. This investment will enable national programs to target their critical resources on environmental and programmatic priorities in partnership with the states, tribes and local governments. The Agency will work with Agency partners and stakeholders to include environmental justice considerations into grants policies and requirements and provide underserved communities better awareness and access to the Agency's financial assistance opportunities.

Performance Measure Targets:

EPA's FY 2023 Annual Performance Plan does not include annual performance goals specific to this program.

FY 2023 Change from FY 2022 Annualized Continuing Resolution (Dollars in Thousands):

- There is no change in program funding.

Statutory Authority:

Reorganization Plan No. 3 of 1970, 84 Stat. 2086, as amended by Pub. L. 98–80, 97 Stat. 485 (codified at Title 5, App.) (EPA's organic statute); Subtitle I of the Solid Waste Disposal Act.

Central Planning, Budgeting, and Finance

Program Area: Operations and Administration
Cross-Agency Mission and Science Support

(Dollars in Thousands)

	FY 2021 Final Actuals	FY 2022 Annualized CR	FY 2023 President's Budget	FY 2023 President's Budget v. FY 2022 Annualized CR
Environmental Programs & Management	$71,528	$76,718	$89,154	$12,436
Leaking Underground Storage Tanks	***$343***	***$416***	***$448***	***$32***
Hazardous Waste Electronic Manifest System Fund	$154	$0	$0	$0
Hazardous Substance Superfund	$26,775	$26,561	$28,806	$2,245
Total Budget Authority	$98,800	$103,695	$118,408	$14,713
Total Workyears	438.8	462.0	470.0	8.0

Total workyears in FY 2023 include 2.0 FTE funded by TSCA fees.
Total workyears in FY 2023 include 39.0 FTE to support Central Planning, Budgeting, and Finance working capital fund (WCF) services

Program Project Description:

EPA's financial management community maintains a strong partnership with the Leaking Underground Storage Tanks (LUST) Program. Activities under the Central Planning, Budgeting, and Finance Program support the management of integrated planning, budgeting, financial management, performance and accountability processes, and systems to ensure effective stewardship of LUST resources. This includes providing financial payment and support services for specialized fiscal and accounting services for the LUST programs.

FY 2023 Activities and Performance Plan:

Work in this program provides Cross-Agency Mission and Science Support and is allocated across strategic goals and objectives in the *FY 2022 - 2026 EPA Strategic Plan*.

In FY 2023, EPA will ensure secure, efficient, and sound financial and budgetary management of the LUST Program through the use of routine and ad hoc analysis, statistical sampling, and other evidence-based decision-making tools. Building on the work begun in previous years, EPA will continue to monitor and strengthen internal controls with a focus on sensitive payments and property. In addition, the Agency is reviewing its financial systems for efficiencies and effectiveness, identifying gaps, and targeting legacy systems for replacement.

Performance Measure Targets:

Work under this program supports performance results in the Central Planning, Budgeting, and Finance Program under the EPM appropriation.

FY 2023 Change from FY 2022 Annualized Continuing Resolution (Dollars in Thousands):

- (+$32.0) This change to fixed and other costs is an increase due to the recalculation of base workforce costs for existing FTE due to annual payroll increases, adjustments to provide essential workforce support, and changes to benefits costs.

Statutory Authority:

Reorganization Plan No. 3 of 1970, 84 Stat. 2086, as amended by Pub. L. 98-80, 97 Stat. 485 (codified as Title 5, App.) (EPA's organic statute); Subtitle I of the Solid Waste Disposal Act.

Facilities Infrastructure and Operations

Program Area: Operations and Administration
Cross-Agency Mission and Science Support

(Dollars in Thousands)

	FY 2021 Final Actuals	FY 2022 Annualized CR	FY 2023 President's Budget	FY 2023 President's Budget v. FY 2022 Annualized CR
Environmental Programs & Management	$257,524	$285,441	$288,293	$2,852
Science & Technology	$65,093	$67,500	$68,912	$1,412
Building and Facilities	$36,071	$27,076	$73,894	$46,818
Leaking Underground Storage Tanks	***$932***	***$836***	***$724***	***-$112***
Inland Oil Spill Programs	$628	$682	$641	-$41
Hazardous Substance Superfund	$81,976	$68,727	$71,219	$2,492
Total Budget Authority	$442,223	$450,262	$503,683	$53,421
Total Workyears	334.2	315.4	325.4	10.0

Total work years in FY 2023 include 5.4 FTE to support Facilities, Infrastructure and Operations working capital fund (WCF) services.

Program Project Description:

Leaking Underground Storage Tank (LUST) resources in the Facilities Infrastructure and Operations Program fund the Agency's rent, utilities, and security. The Program also supports centralized administrative activities and support services, including health and safety, environmental compliance and management, facilities maintenance and operations, space planning, sustainable facilities and energy conservation planning and support, property management, mail, and transportation services. Funding for such services is allocated among the major appropriations for the Agency.

FY 2023 Activities and Performance Plan:

Work in this program provides Cross-Agency Mission and Science Support and is allocated across strategic goals and objectives in the *FY 2022 - 2026 EPA Strategic Plan.*

In FY 2023, EPA will continue to take aggressive action to reconfigure EPA's workplaces with the goal of reducing long-term rent costs while increasing EPA facility resiliency and sustainability to combat the effects of climate change and ensure a space footprint that accommodates a growing workforce. For FY 2023, EPA is requesting $509 thousand for rent in the LUST appropriation. EPA uses a standard methodology to ensure that rent charging appropriately reflects planned and enacted resources at the appropriation level. EPA also will continue working to increase sustainability and reduce carbon emissions through cost-effective solutions.

Performance Measure Targets:

EPA's FY 2023 Annual Performance Plan does not include annual performance goals specific to this program.

FY 2023 Change from FY 2022 Annualized Continuing Resolution (Dollars in Thousands):

- (-$112.0) This change to fixed and other costs is a decrease due to the recalculation of rent and transit subsidy needs.

Statutory Authority:

Federal Property and Administration Services Act; Reorganization Plan No. 3 of 1970, 84 Stat. 2086, as amended by Pub. L. 98-80, 97 Stat. 485 (codified at Title 5, App.) (EPA’s organic statute).

Research: Sustainable Communities

Research: Sustainable and Healthy Communities

Program Area: Research: Sustainable Communities
Cross-Agency Mission and Science Support

(Dollars in Thousands)

	FY 2021 Final Actuals	FY 2022 Annualized CR	FY 2023 President's Budget	FY 2023 President's Budget v. FY 2022 Annualized CR
Science & Technology	$112,717	$133,000	$141,477	$8,477
Leaking Underground Storage Tanks	***$303***	***$320***	***$337***	***$17***
Inland Oil Spill Programs	$1,149	$664	$674	$10
Hazardous Substance Superfund	$13,458	$16,463	$16,927	$464
Total Budget Authority	$127,626	$150,447	$159,415	$8,968
Total Workyears	442.3	421.8	441.8	20.0

Program Project Description:

EPA's Sustainable and Healthy Communities (SHC) Research Program under the Leaking Underground Storage Tanks (LUST) appropriation assists EPA's Office of Underground Storage Tanks, Regions, tribes, and states assess the degradation of Underground Storage Tanks (USTs). This assessment identifies vulnerable tanks before leaks occur and helps develop the tools to track and monitor the status of existing and abandoned USTs and their impact on the community in a changing climate. Specifically, this research provides information and tools designed to enable decision-makers to protect America's land, groundwater resources, and drinking water supplies that could be impacted by the Nation's more than 550,000 underground fuel storage tanks.[2]

SHC will assess the impacts of climate change on USTs and understand the impacts on communities, including disadvantaged populations and those most vulnerable (e.g., tribes). SHC will develop tools and data to address issues related to USTs to protect public health and the environment based on the best available science.

Recent Accomplishments of the SHC Research Program include:

National Database on Underground Storage Tank Infrastructure[3]: In FY 2020, the first national database on underground storage tanks in the US was released by the Office of Research and Development (ORD). It provides geospatial data on facilities and tanks in association with drinking water sources, critical data on the aging infrastructure, and facilities that may be impacted by flooding. Researchers compiled and curated publicly available information regarding the attributes and locations of active and closed USTs, UST facilities, and LUST sites. In FY 2021, ORD instituted a training program to describe the capabilities and functions of the model to our

[2] For more information, please see: https://www.epa.gov/ust.
[3] For more information, please see: https://intranet.ord.epa.gov/sites/default/files/2020-12/UST%20Finder%20User%20Guide_0.pdf and https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=c220c67462e14763a8e0c4df75550278.

federal and state partners and their identified communities. The training will help our partners assess facility risk and triage sites for cleanup and protection of drinking water sources. A public website is available and being updated to meet additional partner needs with version 2.0 planned by the end of FY 2023.

FY 2023 Activities and Performance Plan:

Work in this Program provides Cross-Agency Mission and Science Support and is allocated across strategic goals and objectives in the *FY 2022-2026 EPA Strategic Plan*.

Work in this Program will aim to characterize sites and contaminants released from LUSTs identified under the LUST Trust Fund with an emphasis on assisting the Agency, tribes, and states to address the backlog of sites for remediation. SHC research will help communities remediate contaminated sites at an accelerated pace and lower costs, while reducing human health and ecological impacts. Resulting methodologies and tools will help localities, tribes, and states return properties to productive use, supporting the Agency's mission of protecting human health and the environment in communities. Such work is integral to achieving EPA's priority of safeguarding and revitalizing communities.

In FY 2023, EPA research will continue to develop models, metrics, and spatial tools for EPA regions, tribes, and states to evaluate the vulnerability of groundwater to LUSTs, the impacts of climate change, and the subsequent human health risks that follow contamination, considering environmental justice concerns. SHC will continue to focus on corrosion control methods to improve the lifespan of tanks and reduce the likelihood of leaking. SHC will assist EPA's Underground Storage Tanks Program, tribes, and states by updating technical guidance manuals and evaluations of risk to underground storage tank system components from new fuel formulations.

Research Planning:

EPA research is built around six integrated and transdisciplinary research programs. Each of the six programs is guided by a Strategic Research Action Plan (StRAP) that reflects the research needs of Agency program and regional offices, states, and tribes, and is planned with their active involvement. Each research program is in the process of developing the fourth generation of the StRAPs, which will continue the practice of conducting innovative scientific research aimed at solving the problems encountered by the Agency and its partners.

ORD works with various groups, including communities, to ensure the integrity and value of its research through a variety of mechanisms that include:

- EPA's Board of Scientific Counselors (BOSC)
    - ORD meets regularly with this committee, which provides advice and recommendations to ORD on technical and management issues of its research programs.

- State Engagement
    - EPA's state engagement[4] is designed to inform states about their role within EPA and EPA's research programs, and to better understand the science needs of state environmental and health agencies.

- Tribal Partnerships
    - Key tribal partnerships are established through the Tribal Science Program which provides a forum for the interaction between tribal and Agency representatives. These interactions identify research of mutual benefit and lead to collaborations on important tribal environmental science issues.

Performance Measure Targets:

Work under this program supports performance results in the Research: Sustainable and Healthy Communities Program under the S&T appropriation.

FY 2023 Change from FY 2022 Annualized Continuing Resolution (Dollars in Thousands):

- (+$14.0) This change to fixed and other costs is an increase due to the recalculation of base workforce costs for existing FTE due to annual payroll increases, adjustments to provide essential workforce support, and changes to benefits costs.

- (+$3.0) This program change is an increase to the Sustainable and Healthy Communities LUST research program to help build capacity to address contaminants of emerging concern.

Statutory Authority:

Reorganization Plan No. 3 of 1970, 84 Stat. 2086, as amended by Pub. L. 98-80, 97 Stat. 485 (codified as Title 5 App.) (EPA's organic statute); Subtitle I of the Solid Waste Disposal Act.

[4] For more information, please see: https://www.epa.gov/research/epa-research-solutions-states.

Underground Storage Tanks (LUST/UST)

(Dollars in Thousands)

	FY 2021 Final Actuals	FY 2022 Annualized CR	FY 2023 President's Budget	FY 2023 President's Budget v. FY 2022 Annualized CR
Environmental Programs & Management	$10,373	$11,250	$12,564	$1,314
Leaking Underground Storage Tanks	***$9,561***	***$9,470***	***$9,811***	***$341***
Total Budget Authority	$19,931	$20,720	$22,375	$1,655
Total Workyears	88.1	91.6	95.6	4.0

Program Project Description:

The Leaking Underground Storage Tank (LUST) resources in the LUST/Underground Storage Tank (UST) Program ensure that petroleum contamination is properly assessed and cleaned up. Potential adverse effects from chemicals such as benzene, methyl-tertiary- butyl-ether, alcohols, or lead scavengers in gasoline and the cost to clean up these contaminants underscore the importance of preventing UST releases and complying with UST requirements. Even a small amount of petroleum released from an UST can contaminate groundwater, the drinking water source for many Americans.

This program supports the Administration's priority of mitigating the negative environmental impacts to communities that are historically underserved, marginalized, and adversely affected by persistent poverty and inequality, as articulated in Executive Order 13985: *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*.[5] As of July 2021, there were approximately 53 million people living within a quarter mile of an active UST facility, representing 16 percent of the total U.S. population. These communities tend to be more minority and lower income than the U.S. population as a whole.[6]

Under this program, EPA supports the oversight and implementation of LUST cleanup programs in the states,[7] and directly implements assessments and cleanups of petroleum contamination from USTs in Indian Country. EPA also provides technical assistance and training to states and tribes on how to conduct cleanups and improve the efficiency of state programs. As of September 2021, 61,981 LUST sites had not achieved cleanup completion.[8] In FY 2021, 7,271 LUST cleanups were

[5] For more information, please refer to: https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/.
[6] U.S. EPA, Office of Land and Emergency Management 2021. Data collected includes: (1) UST information as of late-2018 to mid-2019 depending on the state from ORD & OUST, UST Map, https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=b03763d3f2754461adf86f121345d7bc; and (2) population data from the 2015-2019 American Community Survey.
[7] States as referenced here also include the District of Columbia and five territories as described in the definition of state in the Solid Waste Disposal Act.
[8] For more information, please refer to: https://www.epa.gov/system/files/documents/2021-11/ca-21-34.pdf.

completed nationally, including 9 in Indian Country. EPA will continue to collect and analyze information about the initiation and cleanup of UST releases.

As the direct implementer of the Program in Indian Country, EPA oversees cleanups by responsible parties, conducts site assessments, remediates contaminated water and soil, and provides alternative sources of drinking water when needed. EPA's funding for Indian Country is the primary source of money for these activities. With few exceptions, tribes do not have independent program resources to pay for assessing and cleaning up UST releases, and in many cases, there are no responsible parties available to pay for the cleanups at sites in Indian Country.

FY 2023 Activities and Performance Plan:

Work in this program directly supports Goal 6/Objective 6.1, Clean Up and Restore Land for Productive Uses and Healthy Communities in the *FY 2022 - 2026 EPA Strategic Plan.*

In FY 2023, EPA will engage in the following activities:

- Work with states and tribes to implement strategies to reduce the number of sites that have not reached cleanup completion and to address new releases as they continue to be confirmed.

- Provide targeted training to states and tribes, such as remediation process optimization and rapid site assessment techniques.

- Continue developmental updates to the Tribal Underground Storage Tank Database (TrUSTD), which was launched in FY 2021. This database provides a central repository for Tribal UST/LUST data that will both improve data analysis on the tribal UST/LUST universe, as well as create a platform that will make it easier for EPA to obtain and share tribal UST/LUST data with the public.

- Monitor the soundness of financial mechanisms, in particular, insurance and state cleanup funds that serve as financial assurance for LUST releases and ensure that money is available to pay for cleanups. In addition, EPA will continue to provide analysis and technical assistance to states to help them improve the environmental and financial performance of their cleanup funds.

- Provide support in Indian Country for site assessments, investigations, and remediation of high priority sites; enforcement against responsible parties; cleanup of soil and groundwater; alternate water supplies; cost recovery against UST owners and operators; oversight of responsible party lead cleanups; and technical expertise and assistance to tribal governments.

- Provide resources and support to states and tribes to quickly address emergency responses from releases to the environment. Releases from USTs can result in imminent threats to public safety when petroleum or petroleum vapors reach explosive levels in sewers, utility corridors, underground parking structures, and basements near a LUST site. Emergency

response incidents across the country show that reporting, initial abatement measures, and free product removal activities may need to be implemented immediately upon discovery of a release to protect human health and the environment.[9]

Performance Measure Targets:

Work under this program supports performance results in the LUST Cooperative Agreements Program under the LUST appropriation.

FY 2023 Change from FY 2022 Annualized Continuing Resolution (Dollars in Thousands):

- (+$278.0) This change to fixed and other costs is an increase due to the recalculation of base workforce costs for existing FTE due to annual payroll increases, adjustments to provide essential workforce support, and changes to benefits costs.

- (+$63.0) This program change increases support to underground storage tank cleanup, which invests in the health of municipalities and tribal communities.

Statutory Authority:

Resource Conservation and Recovery Act §§ 8001, 9001-9014.

[9] For more information, please refer to: http://astswmo.org/compendium-of-emergency-response-actions-at-underground-storage-tank-sites-version-2/.

LUST Prevention

Program Area: Underground Storage Tanks (LUST / UST)
Goal: Safeguard and Revitalize Communities
Objective(s): Reduce Waste and Prevent Environmental Contamination

(Dollars in Thousands)

	FY 2021 Final Actuals	FY 2022 Annualized CR	FY 2023 President's Budget	FY 2023 President's Budget v. FY 2022 Annualized CR
Leaking Underground Storage Tanks	***$25,383***	***$25,369***	***$26,669***	***$1,300***
Total Budget Authority	$25,383	$25,369	$26,669	$1,300

Program Project Description:

The goal of the Leaking Underground Storage Tank (LUST) Prevention Program is to ensure that groundwater sources are protected from petroleum and associated chemicals leaking from underground storage tanks (USTs). This work supports the Administration's priority of mitigating the negative environmental impacts to communities that are historically underserved, marginalized, and adversely affected by persistent poverty and inequality, as articulated in Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*.[10] As of July 2021, approximately 53 million people live within a quarter mile of an active UST facility, representing 16 percent of the total U.S. population. These communities tend to be more minority and lower income than the U.S. population as a whole.[11]

The LUST Prevention Program provides funding to states[12] and tribes to prevent releases from the 539,610 active USTs by ensuring compliance with federal and state laws through inspections and other activities.[13] Preventing UST releases is more efficient and less costly than cleaning up releases after they occur. The Energy Policy Act (EPAct) of 2005 requires EPA or states to conduct inspections at each regulated UST once every three years.

Funding for LUST Prevention grants is subject to an annual, formula-based allocation process.

FY 2023 Activities and Performance Plan:

Work in this program directly supports Goal 6/Objective 6.2, Reduce Waste and Prevent Environmental Contamination in the *FY 2022 - 2026 EPA Strategic Plan.*

[10] For additional information, please refer to: https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/.
[11] U.S. EPA, Office of Land and Emergency Management 2021. Data collected includes: (1) UST information as of late-2018 to mid-2019 depending on the state from ORD & OUST, UST Map, https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=b03763d3f2754461adf86f121345d7bc; and (2) population data from the 2015-2019 American Community Survey.
[12] States as referenced here also include the District of Columbia and five territories as described in the definition of state in the Solid Waste Disposal Act.
[13] For more information, please refer to: https://www.epa.gov/system/files/documents/2021-11/ca-21-34.pdf.

Due to the increased emphasis on inspections and release prevention requirements, the number of confirmed releases has decreased from 6,847 in FY 2014 to 4,991 reported releases in FY 2021.

EPA estimates that only two percent of the Nation's 125,000 retail fuel locations have the appropriate equipment to store higher blends of ethanol, which means that the remaining UST systems will need some level of upgrade before they can safely and legally store E15. This poses a greater risk of having an accidental oil release in nearby communities. To help address this, EPA is requesting additional resources to establish a targeted, national program to improve the compatibility of UST systems with E15 in fenceline communities where E15 is more prevalently used.

Requested resources will be used to support additional state grant funding to support approximately 400 additional state inspections. These inspections will help ensure UST systems are compatible with E15 storage requirements and to triage sites that need more attention. This investment is one part of a collective plan to support the use of E15, while protecting the surrounding communities and compliments investments being proposed in LUST Prevention and Research: Sustainable and Healthy Communities.

As of FY 2021, 31 states and territories have reported compliance with the UST Technical Compliance Rate (TCR) measure, which came about after the UST rule was revised in 2015. The TCR includes new compliance measures for spill prevention and overfill requirements as well as additional leak detection requirements. More states will report on TCR as they reach their respective UST state regulation effective dates. Of the states that report TCR, they produce a TCR rate of 58 percent in FY 2021, which is consistent with the 58 percent rate from FY 2020.

The remaining 22 states and territories will continue to report the Significant Operational Compliance (SOC) rate until they reach their respective UST state regulation effective dates and move to the TCR. In FY 2021, EPA reported a SOC rate of 68 percent, which mirrors the results from FY 2019 and 2020.[14]

Major FY 2023 activities include core program priorities, such as inspecting UST facilities to meet the three-year inspection requirement and assisting states in adopting prevention measures (for example, delivery prohibition, secondary containment, and operator training). These activities emphasize bringing UST systems into compliance with release detection and release prevention requirements and minimizing future releases. Due to the Covid-19 pandemic, many states fell behind in their 3-year EPAct inspection frequency requirement. EPA will work with states to ensure they come back into compliance and return to their regular inspection cycles.

A lack of proper operation and maintenance for UST systems is one of the main causes of petroleum releases and was the main impetus for EPA to propose changes to the federal UST rule that was finalized in October 2015. In FY 2023, EPA anticipates all states to fully implement the new requirements associated with the federal rule.

EPA is responsible for implementing the UST regulations in Indian Country, in partnership with the tribes. Resources will be used to provide support with all aspects of the tribal prevention

[14] For more information, please refer to: https://www.epa.gov/ust/ust-performance-measures.

programs, including the development of inspection capacity. This includes providing money to support training for tribal staff and educating owners and operators in Indian Country about UST compliance requirements and, in some cases, assisting tribal staff to receive federal inspector credentials to perform inspections on behalf of EPA.

Performance Measure Targets:

(PM UST01) Number of confirmed releases at UST facilities.	FY 2022 Target	FY 2023 Target
	5,150	5,075

FY 2023 Change from FY 2022 Annualized Continuing Resolution (Dollars in Thousands):

- (+$1,300.0) This program change requests grant funding to support the new fenceline communities program and approximately 400 additional state inspections that will focus on ensuring UST systems are compatible with E15.

Statutory Authority:

Solid Waste Disposal Act of 1976, as amended by the Superfund Amendments and Reauthorization Act of 1986, § 2007(f); Energy Policy Act, § 9011.

LUST Cooperative Agreements

Program Area: Underground Storage Tanks (LUST / UST)
Goal: Safeguard and Revitalize Communities
Objective(s): Clean Up and Restore Land for Productive Uses and Healthy Communities

(Dollars in Thousands)

	FY 2021 Final Actuals	FY 2022 Annualized CR	FY 2023 President's Budget	FY 2023 President's Budget v. FY 2022 Annualized CR
Leaking Underground Storage Tanks	***$55,438***	***$55,040***	***$55,040***	***$0***
Total Budget Authority	$55,438	$55,040	$55,040	$0

Program Project Description:

This funding is used to award cooperative agreements to states[15] to implement the Leaking Underground Storage Tank (LUST) Program. The LUST Program ensures that petroleum contamination is properly assessed and cleaned up by providing states with funding to address releases, including in groundwater.[16]

This program supports the Administration's priority of mitigating the negative environmental impacts to communities that are historically underserved, marginalized, and adversely affected by persistent poverty and inequality as articulated in Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*.[17] As of July 2021, there were approximately 53 million people living within a quarter mile of an active UST facility, representing 16 percent of the total U.S. population. These communities tend to be more minority and lower income than the U.S. population as a whole.[18]

LUST funding supports states in managing, overseeing, and enforcing cleanups at LUST sites. This is achieved by focusing on increasing the efficiency of LUST cleanups nationwide, leveraging private and state resources, and enabling community redevelopment. Cleaning up LUST sites protects people from exposure to contaminants and makes land available for reuse.

EPA's backlog study characterized the national inventory of sites that have not reached cleanup completion. The study found that almost half of the releases were 15 years old or older, and that groundwater was contaminated at 78 percent of these sites. Remediating groundwater contamination is often more technically complex, takes longer, and is more expensive than

[15] States as referenced here also include the District of Columbia and five territories as described in the definition of state in the Solid Waste Disposal Act.
[16] Almost half of the Nation's overall population and 99 percent of the population in rural areas rely on groundwater for drinking water. (See *EPA 2000 Water Quality Inventory Report*, https://archive.epa.gov/water/archive/web/html/2000report_index.html).
[17] For more information, please refer to: https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/.
[18] U.S. EPA, Office of Land and Emergency Management 2021. Data collected includes: (1) UST information as of late-2018 to mid-2019 depending on the state from ORD & OUST, UST Map, https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=b03763d3f2754461adf86f121345d7bc; and (2) population data from the 2015-2019 American Community Survey.

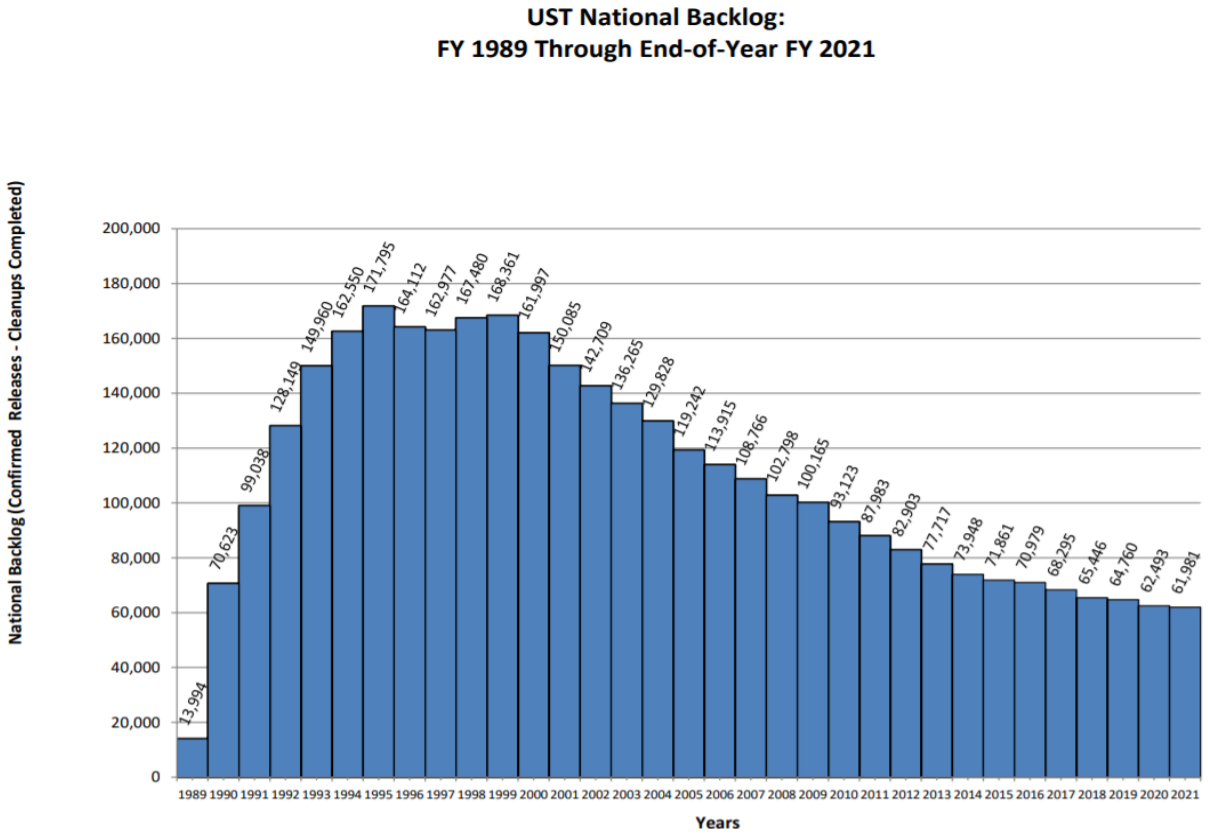
remediating soil contamination.[19] Potential adverse health effects from chemicals in gasoline such as benzene as well as methyl-tertiary-butyl-ether (MTBE), alcohols, or lead scavengers contribute to the importance of cleaning up these contaminants and increase the cost of cleaning up these sites.[20]

An EPA study published in 2018 determined impact of high-profile UST releases on housing prices. The study found that high profile UST releases decrease nearby property values 2 to 6 percent. Once a cleanup is completed, nearby property values rebound by a similar margin.[21]

FY 2023 Activities and Performance Plan:

Work in this program directly supports Goal 6/Objective 6.1, Clean Up and Restore Land for Productive Uses and Healthy Communities in the *FY 2022 - 2026 EPA Strategic Plan.*

The table below shows the progress made on the UST national backlog. EPA will continue to collect and analyze information about the initiation and cleanup of UST releases.



[19] Please refer to *The National LUST Cleanup Backlog: A Study Of Opportunities*, September 2011, http://www.epa.gov/ust/national-lust-cleanup-backlog-study-opportunities.
[20] Please see *Technologies for Treating MtBE and Other Fuel Oxygenates*, May 2004, pages 2-6 and 2-7, https://clu-in.org/download/remed/542r04009/542r04009.pdf.
[21] Guignet, D., Jenkins, R., Ranson, M., & Walsh, P. J. (2018). Contamination and incomplete information: Bounding implicit prices using high-profile leaks. *Journal of environmental economics and management*, *88*, 259-282. https://doi.org/10.1016/j.jeem.2017.12.003.

In FY 2023, EPA will engage in the following activities:

- Collaborate with states to develop and implement flexible, state-driven strategies to reduce the number of remaining LUST sites that have not reached cleanup completion. Through the cooperative efforts between EPA and states, the backlog was reduced by approximately 40 percent between the end of 2008 and the end of 2021 (from 102,798 to 61,981).[22]

- Provide resources to states to perform core cleanup work. Some states also may be able to pursue other means to maximize the effectiveness or efficiency in protectively completing cleanups and reducing their backlogs.

- Leverage funding by developing best practices and supporting management, guidance, and enforcement activities through LUST Cleanup Cooperative Agreements. LUST Cleanup Cooperative Agreements help achieve approximately 8,000 cleanups annually, whereas, if EPA were to apply the funding directly, only about 366 cleanups would occur annually (assuming an average cleanup cost of $150 thousand per site).[23]

- Provide resources and support to states to quickly address emergency responses from releases to the environment. Emergency response incidents across the country show that reporting, initial abatement measures, and free product removal activities need to be implemented immediately upon discovery of a release to protect human health and the environment.[24]

The Energy Policy Act (EPAct) of 2005 requires that states receiving LUST Cooperative Agreements funding meet certain release prevention requirements, such as inspecting every facility at least once every three years. In FY 2023, EPA will continue to factor state compliance with EPAct requirements into LUST Cleanup Cooperative Agreement decisions.

Performance Measure Targets:

(PM 112) Number of LUST cleanups completed that meet risk-based standards for human exposure and groundwater migration.	**FY 2022 Target**	**FY 2023 Target**
	7,439	7,125

FY 2023 Change from FY 2022 Annualized Continuing Resolution (Dollars in Thousands):

- There is no change in program funding.

Statutory Authority:

Resource Conservation and Recovery Act § 9003(h)(7).

[22] For more information, please refer to: http://www.epa.gov/ust/ust-performance-measures.
[23] Average cleanup cost per site based on ASTSWMO's 2019 Annual State Fund Survey Results at: http://astswmo.org/2019-annual-state-fund-survey/.
[24] For more information, please refer: http://astswmo.org/compendium-of-emergency-response-actions-at-underground-storage-tank-sites-version-2/.