Guidelines for States Participating in the Underground Natural Gas Storage Safety Program

Pipeline and Hazardous Materials Safety Administration

December 2018

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GLOSSARY

Act	See Chapter 601, Title 49 of the U.S. Code (2016 version)
Agency	See **State Agency**
Agreement	The State Agency assumes inspection responsibility for facilities and reports probable violations to PHMSA for compliance action.
Certification	The State Agency assumes safety responsibility with respect to intrastate facilities over which it has jurisdiction under State law.
Certification Regarding Lobbying	Each grantee who receives a Federal grant exceeding $100,000 must submit a certification form.
CFDA	Catalog of Federal Domestic Assistance. A reference compilation of all grant programs sponsored by the Federal government. PHMSA's CFDA number is 20.725 for the Underground Natural Gas Storage Grant Program.
Chapter 601, Title 49 of the U.S. Code (2016)	Throughout this manual, Sections 60101 – 60140 refer to Chapter 601, Title 49 of the United States Code (2016). Chapter 601 is the recodification of the Natural Gas Pipeline Safety Act of 1968, as amended (49 USC app 1671 *er seq.*), and the Hazardous Liquids Pipeline Safety Act of 1979, as amended (49 USC app 2001 *er seq).*

Code of Federal Regulations, Title 49 (49 CFR)- Underground Natural Gas Storage Safety

Part 40	Procedures for Transportation Workplace Drug and Alcohol Testing Programs
Part 190	Federal Pipeline Safety Enforcement and Regulatory Procedures
Part 191	Transportation of Natural and Other Gas by Pipeline: Annual Reports Incident Reports, and Safety-Related Condition Reports
Part 192	Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards
Part 198	Regulations for Grants to Aid State Pipeline Safety Programs
Part 199	Drug and Alcohol Testing

Compliance Action An action or series of actions taken to enforce Federal underground natural gas storage regulations. These actions may take the form of a warning letter, an administratively imposed monetary sanction or order directing compliance with the regulations, an order directing corrective action under hazardous conditions, a show cause order, a criminal sanction, a court injunction, or a similar formal action taken to achieve compliance with the underground natural gas storage regulations. Federal Compliance Actions are outlined in Part 190.

Department of Transportation ("DOT") Reference may include any or all of the following: U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety.

Federal State Tracking and Reporting ("FedSTAR") This is the computer application available over the internet which is used by State Underground Natural Gas Storage Safety Programs to enter the required federal documentation and information for participating in the PHMSA Underground Natural Gas Storage Safety Program and Grant.

Grant Funds or aid in kind to carry out specified programs, services, or activities.

Grant Agreement All provisions and requirements of the PHMSA Underground Natural Gas Storage Grant Program, including those specified in the Grant Application, Payment Agreement (Notice of Grant Award), these Guidelines, and any instructions or directives issued by the PHMSA, DOT, or other Federal agency relative to the management of Federal grant programs.

Grant Application This form is to provide PHMSA with information concerning the State Agency's need for Federal financial support for its Underground Natural Gas Storage Safety Program.

Grantee The department or agency of State government which is responsible for the administration of the PHMSA underground natural gas storage safety grant. Also referred to as "recipient" or "State Agency."

Grant Period The grant period extends from the effective date of the Payment Agreement (Notice of Grant Award), January 1, to the expiration date, December 31, unless otherwise arranged. Also referred to as the "program year."

Grants.gov Grants.gov is a central storehouse for information on federal grants.

Grant Program Those activities and operations of the State Agency which are necessary to carry out the purposes of the grant, including any portion of the program financed by the grantee. This technical usage of the phrase should not be confused with the Underground natural gas storage Grant Program (sometimes shortened to

"Grant Program"), which is the Federal assistance program in support of the State Agency's underground natural gas storage safety program.

Inspection (Standard)

An on-site evaluation of an inspection unit for compliance with all applicable Federal or State standards. This includes a thorough compliance review of the operator's plans, procedures, programs, records, physical plant, and work in progress. See Chapter 5 for guidance.

Inspection Person-Day

All or part of a day spent by State Agency staff – Supervisor(s) and/or Inspector(s)/Investigator(s) (including travel) in on-site evaluation of an operator's system to determine compliance with Federal or State underground natural gas storage safety regulations; or in on-site investigation of an underground natural gas storage incident; or in job-site training of an operator. (See section 5.1 for description of inspection types) Time counted for such activities should be reported as a maximum of one inspection person-day for each day devoted to safety issues, regardless of the number of operators visited during that day. (e.g. You may evaluate two operators in the same day and record each inspection visit as 0.5 person-day, or actual fraction of a day, for each operator provided the total does not exceed 1.0 person-day) On a limited basis, the inspector may count in-office inspection time to review operator written: plans, procedures, programs and records in order to effectively use on-site inspection time, as approved by the Program Manager and as noted in the annual Progress Report. In-office inspection time must be adequately documented and made part of the state program's inspection records.

Inspection Unit

All or part of an operator's natural gas underground storage field including records and procedures ensuring uniform design, construction, operation, and maintenance of the field. A underground natural gas storage field may be one Inspection Unit encompassing all wells or multiple Inspection Units with designated wells for each Inspection Unit. Generally, all inspection activities for completing a standard inspection including review of records, procedures, and field observations should be completed for all wells in an Inspection Unit in less than a month.

The application of the Inspection Unit concept will ensure complete inspection coverage of an operator's entire underground natural gas storage field(s) and enhance Federal/State management of work load and PHMSA Program Evaluation. Where unique situations exist, good logic and judgment must be exercised when identifying the parameters of the Inspection Unit.

Mid-year Request for Reimbursement

If a State Agency desires a mid-year payment, it may return one copy of a completed OMB Standard Form 270 to PHMSA requesting a mid-year payment. PHMSA will alert State Agencies

when a mid-year payment is available and facilitate the State Agency Reimbursement through FedSTAR.

Modifications to Payment Agreement (Notice of Grant Award)

Used to amend the Federal grant amount in the Payment Agreement (Notice of Grant Award).

National Response Center (NRC) (1-800-424-8802)

The federal government's national communications center, which is staffed 24 hours a day by U.S. Coast Guard officers and marine science technicians. The NRC receives all reports of releases involving natural gas and hazardous liquids that trigger the federal notification requirements under several laws. This "telephonic" report data is shared with PHMSA via an information system.

National Transportation Safety Board (NTSB)

This Federal agency was created by Congress in the Department of Transportation Act of 1966. Although NTSB's authority is limited to transportation failure investigations, its mission relating to underground natural gas storage safety is to:

1. Investigate significant failures and report the circumstances relating to each failure and its probable cause.

2. Make recommendations to the Secretary, the underground natural gas storage operators, manufacturers, associations, and interested parties in order to minimize the possibility of recurrence of similar failures.

3. Release reports deemed to be in the public interest.

4. Conduct special studies and investigations on matters regarding safety in pipeline transportation and failure prevention.

Noncompliance

A violation or probable violation of any section or any subsection of Federal or State underground natural gas storage safety regulations.

Office of Pipeline Safety (OPS)

For the purpose of this manual, OPS is the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration's Office of Pipeline Safety.

OMB Standard Form 270-Request for Advance or Reimbursement

Submitted by a State Agency for Mid-Year Request for Reimbursement or Year-end Request for Reimbursement.

Payment Agreement (Notice of Grant Award)	The formal document that allocates a specific amount of Federal funds to a State Agency for the reimbursement of not more than 80 percent of the expenses of an underground natural gas storage safety program.
Performance Criteria	Criteria used in assigning points for allocation of grant funds.
Personal Property	Property of any kind except real property. It may be tangible (having physical existence), or intangible (having no physical existence), such as patents, inventions, and copyrights, both having a useful life of more than 1 year and an acquisition cost of at least $5,000.
Pipeline and Hazardous Materials Safety Administration (PHMSA)	Pipeline and Hazardous Materials Safety Administration is the agency under the U.S. Department of Transportation responsible for pipelines, liquified natural gas, and underground natural gas storage safety oversight.
PHMSA Training and Qualifications Division (TQ)	The safety training organization operated by PHMSA in Oklahoma City, OK, for pipeline and underground natural gas storage inspectors.
Program Cost Summary	This form compares estimated budget figures with final expenses incurred for the program, and is submitted by a State Agency with the Year-end Request for Reimbursement.
Probable Violation	A probable violation is a potential noncompliance with any of the minimum federal regulations.
Program	The planned undertaking of the State Agency's underground natural gas storage safety activities as stated in the Grant Application.
Program Budget	A schedule of proposed expenditures that is allowable, necessary, and reasonable for proper and efficient execution of the underground natural gas storage safety program.
Program Costs	All allowable costs (as set forth in 2 CFR 200) incurred by a State Agency in accomplishing the objectives of the Underground Natural Gas Safety Grant Program during the Grant Period.
Program Manager	The person designated by the State Agency as responsible for all activities of the underground natural gas safety program
Program Year	See "Grant Period."
Real Property	Land, land improvements, structures, and appurtenances thereto, Excluding movable machinery and equipment.

Recipient	See "Grantee."
Region Director (RD)	The individual responsible for all activities of the designated PHMSA region
Region Office	One of five offices delegated the authority to carry out the field activities for PHMSA
Special Initiatives	Initiatives occasionally issued by PHMSA for a limited purpose.
State Agency	The division of each State, including the District of Columbia and Puerto Rico, authorized through a Certification or Agreement with the Department of Transportation (DOT) to administer a underground natural gas storage safety program. Also referred to as "grantee" or "recipient."
State Program Personnel	The PHMSA headquarters staff person (i.e. State Liaison) who provides technical assistance, support and evaluates State Agency programs.
Supervisor	Individual in a State Agency supervising underground natural gas storage safety inspectors/investigators and so designated in Attachment 7 of the annual Progress Report.
Year-End Request for Reimbursement	One copy of a completed OMB Standard Form 270 is completed by a State Agency to submit total program costs for the previous year to PHMSA. PHMSA will alert State Agencies when a Year-End Request for Reimbursement is available and facilitate the State Agency Reimbursement through FedSTAR.

ACRONYMS

AID	Accident Investigation Division
CFDA	Catalog of Federal Domestic Assistance
CFR	Code of Federal Regulations
DOT	U.S. Department of Transportation
FedSTAR	Federal State Tracking and Reporting
MOU	Memorandum of Understanding
NRC	National Response Center
NTSB	National Transportation Safety Board
O & M	Operation and Maintenance
OMB	Office of Management and Budget
PHMSA	Pipeline and Hazardous Materials Safety Administration
PHP-50	PHMSA State Programs Division
PY	Person-Year
RD	Region Director
SUDS	State Uploaded Document System (within FedSTAR)
TQ	PHMSA Training and Qualifications Division
USC	United States Code

1 The Federal/State Partnership

1.1 Congressional Intent

49 U.S.C. Chapter 601 provides the statutory basis for the underground natural gas storage safety program, establishes a framework for promoting safety through exclusive Federal authority for the regulation of underground natural gas storage facilities, and provides for Federal delegation to the States for all or part of the responsibility for intrastate underground natural gas storage facilities under annual Certification or Agreement. 49 U.S.C. Chapter 601 authorizes Federal grants-in-aid of not more than 80 percent of a State Agency's personnel, equipment, activities and other allowable costs for its underground natural gas storage safety program. The resulting Federal/State partnership is the cornerstone for ensuring uniform implementation of the underground natural gas storage safety program nationwide. 49 U.S.C. Chapter 601 can be found in Appendix A.

1.2 Federal Role and Organizational Structure

The PHMSA mission is to protect people and the environment by advancing the safe transportation of energy and other hazardous materials that are essential to our daily lives. To do this, the agency establishes national policy, sets and enforces standards, educates, and conducts research to prevent incidents. We also prepare the public and first responders to reduce consequences if an incident does occur. The agency's goals are:

- **Promote continuous improvement in safety performance**, including establishment of a framework and approach for implementing Safety Management Systems (SMS);
- **Invest in safety innovation to become more proactive and forward-looking** by building PHMSA's innovation and analytics capabilities and through partnerships;
- **Build stakeholder and public trust** through proactive and targeted outreach, engagement, responsiveness, and transparency;
- **Cultivate organizational excellence and safety culture** by investing in employees and key capabilities;
- **Pursue operational excellence** through consistent and efficient business processes and by transforming how PHMSA leverages data to drive decision-making.

Under delegation from the Secretary of the Department of Transportation (DOT), PHMSA directly administers the underground natural gas storage safety program and enforces minimum safety regulations for interstate and intrastate underground natural gas storage facilities. These regulations are written to ensure safety in the design, construction, testing, operation, and maintenance of underground natural gas storage facilities. PHMSA ensures compliance with regulations through operator inspections, enforcement actions, and accident investigations. In addition, the PHMSA Training and Qualifications Division (TQ) conducts training in application of the regulations. PHMSA also administers grant-in-aid funding to States, conducts research, and collects and analyzes safety data.

PHMSA Headquarters is located in Washington D.C. and through their State Programs Division administers the grant-in-aid program to support State Agencies' Underground Natural Gas Storage Safety Programs. The PHMSA State Programs Division is the focal point for supporting State Agencies participating in PHMSA's Underground Natural Gas Storage Program.

The PHMSA Region Offices serve as the focal point for interstate compliance activities and intrastate facilities where a state does not have a Certification or Agreement with PHMSA. The PHMSA Region staff through the PHMSA State Programs Division provides technical assistance and support to State Agency programs for inspection and compliance issues. PHMSA Headquarters supports the work of the five PHMSA Region Offices. State Agencies are encouraged to contact their State Liaison or Director of State Programs if they have any questions about technical or other inspection issues.

1.3 State Role and Organizational Structure

A State legislature delegates responsibility (regulatory authority) for underground natural gas storage safety to a State Agency. The State Agency may be a State Oil and Gas Commission, State Department of Natural Resources, Public Utility Commission, a State Fire Marshal, a State Public Service Commission, or other State office. To enter into a 60105 Certification or 60106 Agreement with PHMSA, State Agencies must under State law have regulatory authority over underground natural gas storage facilities within the State. State Agency duties normally consist of operator inspections, compliance/enforcement actions, safety programs, incident investigations, natural gas well permitting, and record maintenance and reporting.

1.4 Invitational Travel

In support of various underground natural gas storage initiatives, PHMSA may provide invitational travel (100% funding) for the following:

- State Agency representatives with subject matter expertise to participate in various underground natural gas storage working groups or other events at the discretion of the Director of State Programs.

Each committee or working group representative that has not traveled under federal invitational travel orders will need to complete an E-2 User Profile Request form. The form will need to be completed prior to submitting the PHP Travel Request Form. All travel requests will need to be submitted at least one month prior to each tentative meeting. All Travel Requests and Travel Vouchers are submitted using the following e-mail address: PHMSAStateInvitationalTravel@dot.gov . State Agencies can obtain a form in the PHMSA Common Forms section of FedSTAR or by contacting the PHMSA State Liaison. Once PHMSA has reviewed and concurs with the request, each committee member will be provided additional details on travel arrangements. Requests may be denied if not submitted within the time frame mentioned above or if a prior travel reimbursement voucher has not been submitted by the representative to PHMSA Headquarters for process.

In general, PHMSA will provide airline tickets for the committee task team member and reimburse the traveler (not the State Agency) for other expenses at the standard government per diem rates. The federal lodging and per diem rates are located at: http://www.gsa.gov/portal/category/21287 and Airline City Pairs at: http://cpsearch/search.do?method=enter

To ensure invitational travel voucher requests are processed in a proper and timely manner, committee members need to submit the PHP Invitational Voucher Form as soon as they return from the meeting. The individual traveler, or group/committee designee, shall also submit a written summary of the meeting events within 30 days after the meeting to the PHMSA Director of State Programs. The written summary is not required if a PHMSA representative was in attendance at the meeting(s).

2 State Participation Requirements

State Agency participation in the underground natural gas storage safety program is based on voluntary submission of a Certification pursuant to Section 60105 of 49 U.S.C. Chapter 601 or of an Agreement pursuant to Section 60106 of 49 U.S.C. Chapter 601.

Under a *Certification*, the State Agency assumes inspection and enforcement responsibility with respect to intrastate facilities over which it has jurisdiction under State law. With a Certification, the State Agency may adopt additional or more stringent standards for intrastate facilities provided such standards are compatible (more stringent) than Federal regulations.

Under an *Agreement* the State Agency assumes inspection responsibility for facilities and reports probable violations to PHMSA for compliance action (See Section 5.1.9).

Under a Certification or Agreement, the State Agency may not subcontract underground natural gas storage safety-related work activities without prior approval from the Director of State Programs. If the State Agency does not apply for a Certification or Agreement, for a given year, the intrastate facilities within the state remain the responsibility of PHMSA to inspect and enforce the minimum federal regulations.

2.1 Section 60105 Certification

To qualify for Section 60105 of 49 U.S.C. Chapter 601 Underground Natural Gas Storage Certification the State Agency must meet the following requirements:

1. State entity has regulatory jurisdiction over the standards and practices for underground natural gas storage facilities;

2. The State Agency must have adopted each Federal safety standard applicable to underground natural gas storage facilities under its jurisdiction as of the date of the Certification. When a Federal standard is established within 120 days before the date of Certification, the State Agency must be taking steps pursuant to State law to adopt the standard.

3. The State Agency will inspect and enforce the minimum Federal regulations for underground storage that include inspections conducted by State employees meeting the qualifications established by PHMSA;

4. The State Agency must encourage and promote the establishment of a program designed to prevent damage by demolition, excavation,

tunneling, or construction activity to the underground natural gas storage facilities to which the Certification applies that subjects persons who violate the applicable requirements of that program to civil penalties and other enforcement actions, and addresses the elements in 49 U.S.C. Section 60134(b).

5. State Agency has the authority to conduct inspections and investigations and may require underground natural gas storage operators to provide records and reports.

6. State Agency may require underground natural gas storage operators to submit operations and maintenance plans and require plan amendments as necessary.

7. State Agency may provide for the enforcement of the safety standards by injunctive and monetary sanctions that are substantially the same as those provided by Sections 60120 (Enforcement) and 60122 (Civil penalties) of 49 U.S.C. Chapter 601. At a minimum, each state must have civil penalty amounts of $200,000 per day up to a maximum of $2,000,000 for a related series of violations as set out under 190.223 Maximum Penalties.

2.2 Section 60106 Agreement

By mutual agreement between PHMSA and the State Agency, a Section 60106 of 49 U.S.C. Chapter 601 Agreement permits the State Agency to undertake safety activities concerning intrastate underground natural gas storage facilities when the State Agency does not qualify for Section 60105 of 49 U.S.C. Chapter 601 Certification.

A State Agency conducting an underground natural gas storage safety program under a Section 60106 of 49 U.S.C. Chapter 601 Agreement inspects intrastate operators for compliance with safety standards. Under such an Agreement, the State Agency will conduct all underground natural gas storage safety program activities that the State Agency is allowed to conduct under Section 60105 of 49 U.S.C. Chapter 601 Certification except that, in the event of a probable violation(s) of the underground natural gas storage safety standards, the State Agency must notify PHMSA of the probable violation(s) and provide evidence in support of PHMSA's enforcement action against the operator. If a State Agency has an Agreement, PHMSA remains the responsible authority for all compliance actions (See Section 5.1.9).

To qualify for a Section 60106 of 49 U.S.C. Chapter 601 Agreement, the State Agency must:

1. Establish an adequate program for record maintenance, reporting, and inspection of underground natural gas storage facilities.

2. Establish procedures for the review of underground natural gas storage operation and maintenance procedures and plans that are substantially the same as required under Section 60108 of 49 U.S.C. Chapter 601. The State Agency review of procedures shall consider--

   A) relevant available underground natural gas storage safety information;

   (B) the appropriateness of the plan for underground natural gas storage;

   (C) the reasonableness of the plan; and

   (D) the extent to which the plan will contribute to public safety and the protection of the environment.

2.3 PHMSA's procedures to monitor, evaluate and reject a State Program's Certification.

PHMSA will conduct Program Evaluations and review Progress Reports to determine if a State Agency is meeting the Certification/Agreement requirements. If a State Agency is determined not to be meeting the Certification/Agreement requirements PHMSA may act to decertify a State Agency and assume inspection and enforcement over the intrastate facilities covered under the Certification/Agreement. Procedures to decertify a State Agency are described in Appendix P.

2.4 Project Specific Time Defined Agreement

PHMSA may request the State Agency assist in performing a variety of duties on an ad hoc basis for interstate facilities when mutually agreed upon by PHMSA and the State Agency. This assistance may include inspection of specific operators, inspection of construction, witness to repairs or testing, or investigation of incidents.

In some cases, PHMSA's request may involve immediate deployment of State Agency staff. To expedite the process, the Region Director or State Programs Director will call the State Agency's Program Manager to request that the State Agency act on behalf of PHMSA. If the State agrees to support PHMSA, the call will be followed by a letter formalizing the details of the Project Specific Time Defined Agreement (See Appendix B).

2.5 Joint Inspection of an Interstate Operator

At the request of a State Agency, PHMSA shall allow for a State Agency under a 60105 Certification to participate in the inspection of an interstate underground natural gas storage facility. Guidelines for the State Agency participation is as follows:

The State must have a 60105(a) Certification –

- The State must make a formal request to the Director State Programs at the following email address: zach.barrett@dot.gov. The state should list the Interstate Operator(s) which the state wants to participate in the inspection(s) with PHMSA.

- When the interstate operator is scheduled for inspection the PHMSA Lead Inspector will contact the State Program Manager to coordinate the State Participation – If the State cannot make the inspection dates PHMSA does not have to reschedule the inspection to accommodate the State.

- The Lead Inspector will communicate with the State Program Manager when communicating to the other inspection team members regarding the inspection dates.

- The State must have accomplished all required minimum inspection days for the previous Calendar Year.

- No inspection person–days are counted for these inspections.

- No travel or inspection time will be covered by the State Base Grant for these inspections.

- State Inspectors must take direction from PHMSA Lead Inspector.

- State may use the Inspection Assistant (IA) program to participate in the inspection or follow along with federal inspector using IA for the inspection.

- State may not retain inspection documents due to State Laws requiring documents to be made public which may be pre-decisional.

2.6 Certification/Agreement Forms

In September of each year, PHMSA makes available Certification/Agreement forms to each State Agency, which is included with the annual grant program application. These forms are provided electronically on the Federal State

Tracking and Reporting system (FedSTAR) (See Chapter 10). The electronic application is available over the internet to approved state personnel in direct support of that State Agency's Underground Natural Gas Storage Safety Program. Certification and Agreement forms will be completed online in FedSTAR, hardcopy documents printed from the FedSTAR system, signed by the appropriate State official and then mailed to PHMSA Headquarters at:

ATTN: Angela Sung
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Pipeline Safety PHP-50
1200 New Jersey Avenue, SE Second Floor E22-321
Washington, D.C. 20590

2.7 Progress Report

In February of each year, the State Agency must submit a completed Progress Report with attachments for the underground natural gas storage program for the previous calendar year activities. This report must be submitted to PHMSA headquarters at the address provided under 2.6 above. The attachments to the Progress Report are used in assessing State Agency program performance in conjunction with the results of the PHMSA annual Program Evaluation. A brief description of the Underground Natural Gas Storage Progress Report Attachments follows:

2.7.1 Attachment #1: State Jurisdiction and Agent Status

This attachment requires the State Agency to indicate those underground natural gas storage operator types and inspection units over which the State Agency has jurisdiction under existing state law.

2.7.2 Attachment #2: Total State Field Inspection Activity

This attachment requires the State Agency to indicate by operator type (Salt Cavern, Depleted Hydrocarbon Reservoir, or Aquifer) and inspection type as outlined in Section 5.1, the number of inspection person-days spent during the previous calendar year. Time counted for such activities (only for underground natural gas storage facilities subject to Part 192 regulations and performed by an individual listed as Inspector/Investigator on Attachment 7) should be reported as a maximum of one inspection person-day for each day devoted to safety issues, regardless of the number of operators visited during that day. (e.g. you may evaluate two operators in the same day and record each inspection visit as 0.5 person-day, or actual fraction of a day, for each operator

provided the total does not exceed 1.0 person-day). If the State Agency participated in a temporary Agreement for interstate facilities during the calendar year inspection person-days for those activities should be included for the appropriate inspection or investigation type.

2.7.3 Attachment #3: Facilities Subject to State Safety Jurisdiction

This attachment requires the business name and address of each underground natural gas storage operator subject to State Agency's jurisdiction as of December 31st of the previous year. The operators and inspection units listed should only include those as defined by federal underground natural gas storage regulations and should not include extended jurisdiction by state regulation.

2.7.4 Attachment #4: Underground natural gas storage Incidents/Accidents

This attachment requires a summary or report of incidents investigated by or reported to the State Agency meeting the federal reporting requirement as defined in 49 CFR Part 191.

2.7.5 Attachment #5: State Compliance Actions

This attachment provides a summary of probable violations of underground natural gas storage safety regulations, compliance actions and civil penalties initiated by the State Agency during the previous calendar year. The summary should not include counts for probable violations, compliance actions and civil penalties of State damage prevention laws/regulations.

2.7.6 Attachment #6: State Record Maintenance and Reporting

This attachment requires a list of records and reports maintained and required by the State Agency.

2.7.7 Attachment #7: State Employees Directly Involved in the Underground Natural Gas Storage Safety Program

This attachment requires a list by name, title, percent of time, months in program and qualification category of each inspector or supervisor directly involved in the underground natural gas storage safety program during the prior year. Furthermore, it requires a summary of the number of all staff (managers/supervisors, inspectors/investigators, technical and administrative) working on the underground natural gas storage safety program and the person-years devoted to the program during the prior year. If a person listed

as a Supervisor in Attachment 7 conducts inspection duties for which inspection person-days are included in Attachment 2, time spent as a Supervisor and Inspector/Investigator should be apportioned accordingly in Attachment 7. Individuals with no time spent in the program should not be listed. (See table 4.1 for State Inspector Qualification Categories)

2.7.8 Attachment #8: State Compliance with Federal Requirements

This attachment requires the State Agency to indicate whether it has adopted or is in the process of adopting the applicable Federal underground natural gas storage safety requirements. It also requests that the State Agency indicate the frequency its Legislature meets in general session. This information is used by PHMSA to determine whether applicable Federal regulations have been adopted within 24 months of the effective date or two general sessions of the State Legislature, whichever is longer.

2.7.9 Attachment #9 [RESERVED]

2.7.10 Attachment #10: Performance

This attachment asks each State Agency to outline any planned performance goals for the coming year and any accomplishments of past stated goals.

3 State Regulatory Responsibility

3.1 Adoption of Federal Regulations and Requirements

A State Agency participating in the underground natural gas storage program under a Certification is required to adopt the Federal underground natural gas storage safety regulations and adopt future amendments or take steps to adopt such amendments into state regulations. Adoption of applicable Federal regulations and amendments may be automatic, require State rulemaking actions, or necessitate State legislative action. Amendments to the Federal regulations should be adopted into state regulations within 24 months of the effective date of the amendment or two general sessions of the State Legislature, whichever is longer. In addition, a State Agency may issue additional or more stringent standards concerning intrastate underground natural gas storage facilities if they are compatible (more stringent) than the Federal regulations. Only PHMSA may issue an interpretation of the minimum Federal regulations adopted by the State Agency. Request for interpretations of the minimum Federal regulations should be directed to the PHMSA Director of Standards and Regulations at:

Mr. John A. Gale
Director of Standards and Rulemaking
Office of Pipeline Safety
Room 24-310
1200 New Jersey Ave, SE
Washington DC 20590

3.2 Waiver of Federal Regulations

3.2.1 Interstate Underground Natural Gas Storage Facilities

Waivers of Federal regulations concerning interstate facilities may be considered only by PHMSA and must be published in the federal register.

3.2.2 Intrastate Underground Natural Gas Storage Facilities

An operator may request a waiver of the minimum federal UNGS regulations in accordance with 49 USC Section 60118. A State Agency may consider a waiver of underground natural gas storage safety requirements subject to PHMSA concurrence. A waiver may be granted when it is not practical for an operator to comply with a regulation of general applicability. The information found in 49 CFR 190.341(c) provides basic information that should be included

in the waiver request. The State Agency is encouraged to consult with PHMSA on the appropriateness of granting a waiver before formal action is taken. The State Agency should send the proposed waiver request and the contact information for the State technical expert assigned to the waiver review to the following group email: PHMSAOPSStateWaivers@dot.gov. PHMSA will assign a technical point of contact to work with the State Agency's technical expert throughout the State Agency's waiver review process. PHMSA may require additional considerations or conditions to be included in the State Agency's approval of the waiver. The inclusion of these considerations or conditions in the State Agency's written approval could avoid PHMSA's objection to the waiver during PHMSA's 60-day deliberative process.

If a State Agency finds a waiver request is consistent with underground natural gas storage safety and is justified, it may issue written approval under such terms and conditions as are appropriate. Written approval should include a statement of reasons for granting the waiver.

If a State Agency finds a waiver request is not consistent with underground natural gas storage safety or is not otherwise justified, it must issue written denial of the request. Written denial should include a statement of reasons for not granting the waiver.

A State Agency must notify PHMSA in writing by registered or certified mail of each waiver granted by the State. Each notice must provide the following information:

1. The name, address, and telephone number of the applicant
2. The safety regulation involved
3. A description of the underground natural gas storage facilities involved
4. The justification for approving the waiver, including the reasons why the regulations are not appropriate and why the waiver is consistent with underground natural gas storage safety
5. A copy of the State Agency's order or letter to the applicant
6. All correspondence concerning waivers should be addressed to:

   Mr. John A. Gale
   Director of Standards and Rulemaking
   Office of Pipeline Safety, Room 24-310
   1200 New Jersey Ave, SE
   Washington DC 20590

PHMSA will acknowledge receipt of each notice and consider each in the order it was received. PHMSA may provide further opportunity for public comment.

If PHMSA does not object to the waiver, it will so notify the State Agency. The waiver is effective upon approval by PHMSA or no action by PHMSA 60 days after the receipt of waiver from the State Agency. If, before a waiver is to become effective, PHMSA notifies the State Agency that it objects to the waiver, the action granting the waiver will be stayed. PHMSA will then allow the State Agency an opportunity to present its arguments with opportunity for a hearing. Thereafter, PHMSA will make the final determination whether the waiver may be granted and will notify the State Agency of its decision.

In the event of an emergency waiver, the PHMSA written notice and hearing requirements may be omitted if the State Agency finds that notice is impracticable, unnecessary, or not in the public interest. However, the State Agency must immediately notify PHMSA's Director, State Programs of its decision to grant the emergency waiver and follow up with written notification to the Director within 48 hours. After granting the emergency waiver, the State Agency must investigate the circumstances causing the specific emergency and require the operator to take action to prevent its reoccurrence in the future. Each State Agency should follow the emergency waiver methods prescribed in section 60118(c) (2) of the Pipeline Safety Act (See Appendix A). For all waivers in effect, State Agencies are required to verify that the conditions of those waivers are being met. Where appropriate, State Agencies must terminate a waiver if it is no longer valid. For all waivers that are no longer in effect (e.g. project is completed, time frame has expired, State Agency termination, code change), State Agencies must notify PHMSA Standards and Regulations Division that the waiver is no longer in effect.

4 Personnel

4.1 State Agency Minimum Required Inspection Activity

To meet the State Agency's commitment to underground natural gas storage safety, each State Agency must maintain an adequate, base-level number of underground natural gas storage safety inspection activity days. The inspection activity level is arrived at by each state program conducting an operator by operator analysis. The basis of the inspection activities will include the following inspection types, as applicable.

- Standard Inspections – Procedures, Records, Field
- Specialized Inspections
- Design, testing and construction Inspections
- Investigating Incidents and Accidents
- Compliance Follow-up
- Drug and Alcohol Inspections

The inspection activity level derived pertains only to the minimum level of underground natural gas storage safety inspection activity. The level does not include supervisory or clerical personnel, nor does it include staff requirements for inspection of underground natural gas storage facilities that are not covered by 49 U.S.C. Chapter 601.

The inspection activity needed for each operator will be developed by analyzing each applicable type of inspection and applying the following criteria:

- Determination of inspection duration and frequency based on experience with the operator.
- Determining the number of inspection days needed to complete each inspection activity.
- Establishing the optimum intended inspection interval based on the need and past experience. This interval will consider any known risks and any other relevant factors.

- Inspection activity should include all the individuals necessary for performing the inspection (e.g. if you send 2 inspectors for 5 days of inspection each, the total would be 10 inspection person-days).

- Each State Agency will also consider any unique considerations valid to the operator which may not be risk related. (Such as travel distance to conduct inspections, etc.)

The minimum number of required Inspection Days will be determined and communicated to each State Agency after PHMSA's Underground Natural Gas Storage Safety Program matures and development of inspection protocols and other necessary information to determine a minimum inspection effort is completed.

4.2 Allocation of Effort

Each full-time underground natural gas storage safety inspector must devote a minimum of 85 inspection person-days (see definition) to underground natural gas storage safety compliance activities each calendar year. Staff that devotes only a portion of their time to compliance activities should produce a corresponding percentage of inspection person-days. The level of inspection effort reported by the State Agency will be reviewed by PHMSA during the annual Program Evaluation of the State Agency's Underground Natural Gas Storage Safety Program.

4.3 Training

The PHMSA Training and Qualifications Division (TQ) provides nationwide training and technical assistance for the safe transportation of gas and hazardous liquids in the nation's pipelines and underground natural gas storage facilities. TQ develops and delivers training courses directly related to the enforcement of the various underground natural gas storage safety regulations. Instructors for these courses are permanent TQ employees as well as other associate staff from government and industry.

All underground natural gas storage safety training offered by TQ is performance-oriented, and instruction consists of lectures, written material, group discussion, and video and slide/tape presentations. Opportunities to apply the classroom instruction to practical situations are provided through group or individual "hands-on" lab work projects. The individual courses offered generally cover a specific area of the underground natural gas storage safety regulations. Upon completion of each instructor led training course, a Certificate of Completion is awarded.

4.3.1 Required Training

To ensure that each inspector has knowledge of minimum Federal underground natural gas storage safety regulations, each inspector must attend all required courses within a period of 3 years (successfully complete within 5 years) of the completion of the first course in the underground natural gas storage safety program. The required courses are listed in Appendix C and in Section 4.5. The first course should be scheduled as soon as practical after employment of the inspector. In the event a required course was not scheduled by TQ within the 3-year requirement, an inspector must have been registered or waitlisted for the training to be considered as meeting training requirements. If any post test score of a required course is below 60, the individual must reenroll in the next available class for the required course and achieve a post test score of 70 or above (If the post test score is between 60 and 69 a posttest retake may be completed - see 4.3.2). Course prerequisites **must** be successfully met before a student can attend the training class.

4.3.2 Course Re-Testing

Mandatory training requires successful completion. If a student fails a course, PHMSA TQ will automatically reregister them to repeat the course. If openings are unavailable, the participant will be waitlisted. PHMSA TQ recommends an inspector retrain; however, one retest will be considered. For this consideration, the posttest score must be between 60% and 69%. An email request for a posttest retake must be sent from the Program Manager to the Director of PHMSA Training and Qualifications Division. The retake must be taken within sixty days of the failure. If a request is approved to retake a posttest, the posttest will be proctored online by ProctorU. TQ will schedule and pay the ProctorU expenses. Courses exempt from test retakes are “Safety Evaluation of Underground Storage Programs”.

4.3.3 Waivers from Training

PHMSA will consider granting a waiver from the recommended 3-year training period or from initial attendance at individual TQ courses on a case-by-case basis. Descriptions of extension of time and permanent waivers follow.

4.3.4 Extension Of Time Training Waiver

A State Agency may request an extension of time waiver if an inspector cannot complete a required course within the 3-year period because of serious illness, maternity leave, or uncontrollable workload demands (e.g., involvement in accident investigation). If an inspector cannot complete a required course within the 3-year period because class slots are not available, the State Agency must include TQ verification of the class status and the date of the State Agency’s registration submittal.

4.3.5 Permanent Training Waiver

A State Agency may request a permanent waiver if an inspector has had previous training, education, or on-the-job experience that provides an equivalent level of knowledge presented in the course. The State Agency must clearly demonstrate that the inspector's training is equivalent to the required TQ training. Additionally, a clear case must be made why taking the required training would result in an undue burden to the State Agency. If an inspector takes a similar job in another State Agency's underground natural gas storage safety program, TQ training credits will be transferred to the new State Agency.

4.3.6 Procedures For Requesting A Training Waiver

The Program Manager petitions the Director of State Programs requesting waiver of the requirements. This request includes justification and must specify whether it is for an extension of time or permanent waiver. An extension of time waiver should not be requested sooner than the calendar year within which the 3-year grace period ends. An extension of time waiver request should include the proposed date to which the training requirement would be extended.

The Director of State Programs Division reviews the package, with concurrence of the Director of Training and Qualification Division, and decides on whether to grant the waiver. Written approval or denial is sent to the requesting State Agency. A copy of this response is sent to TQ. If denied an appeal may be submitted to the PHMSA Associate Administrator of Pipeline Safety for further consideration.

4.4 Continuing Education and State Inspector Mentoring Program

In addition to the required TQ underground natural gas storage safety courses, the State Agency is encouraged to continue to send its safety inspectors to TQ classes, industry-sponsored seminars, and other underground natural gas storage safety courses. Such a continuing education program will provide for a well-rounded, technically up-to-date training experience.

In coordination between PHMSA and State Agencies participating in PHMSA's Underground Natural Gas Storage Safety Program, a mentoring program for state inspectors is established to provide additional training opportunities. The program is described in Appendix H. The program described in Appendix H allows for an individual to customize the additional training to meet their development needs. To initiate the process, the application in Appendix H can be completed by the requesting training through mentoring for an individual(s) and submitted to PHMSA's Director of State Programs for approval.

4.5 State Program Personnel Changes and Qualifications

Any official change in the Program Manager shall be communicated immediately to PHMSA Director of State Programs. Any contact information, names of personnel affected and transition plan shall be communicated, if known. This notification shall be in writing and from the head of the State Agency.

In addition, each State Agency shall notify PHMSA TQ and PHMSA Director of State Programs as soon as practical of any changes to their underground natural gas storage inspection staff so training records and database(s) access may be updated accordingly. Training requests for inspectors should be added immediately into the TQ training database so enrollments can be made into required TQ training courses so resources are made available to accommodate the needs of all State Agencies. The PHMSA Director of State Programs will request the appropriate database administrator to remove access for any departed inspection staff member(s). State Agencies can obtain a form in the PHMSA Common Forms section of FedSTAR for requesting the removal of employees from the PHMSA databases.

Each State Agency should be staffed with qualified personnel who are experienced in underground natural gas storage safety operations and/or have an educational background in engineering or related technical fields. Personnel with less than these minimum qualifications may be hired provided the State Agency takes immediate steps (scheduling TQ classes as available) to provide training opportunities to meet the required level of competency. Staff should not be permitted to conduct independent activities until it is determined that they have demonstrated the ability and proficiency to perform their duties satisfactorily. PHMSA has defined five qualifications categories for program staff. (See Table 4-1)

Table 4-1 - Categories and Qualifications for State Agency Inspectors

Category		Qualifications
I		• Has an engineering degree from an accredited engineering school or is a registered professional engineer *and* • Has a minimum of 3 years' experience in underground natural gas storage or the enforcement of underground natural gas storage regulations at the Federal or State level *and* • Has received a completion certificate for all the applicable training at TQ or has received a waiver from PHMSA for applicable training not taken
II	A	• Has an engineering degree from an accredited engineering school *and* • Has received a completion certificate for all the applicable training at TQ or has received a waiver from PHMSA for applicable training not taken
	B	• Is a registered professional engineer *and* • Has received a completion certificate for all the applicable training at TQ or has received a waiver from PHMSA for applicable training not taken
	C	• Has a minimum of 5 years of experience in underground natural gas storage or the enforcement of underground natural gas storage regulations at the Federal or State level *and* • Has received a completion certificate for all the applicable training at TQ or has received a waiver from PHMSA for applicable training not taken
	D	• Has a minimum of 10 years of experience in underground natural gas storage or the enforcement of underground natural gas storage regulations at the Federal or State level *and* • Has received a completion certificate for at least half the applicable training at TQ or has received a waiver from PHMSA for applicable training not taken
III		• Has a college degree or • Has a minimum or 5 years of experience in underground natural gas storage or the enforcement of underground natural gas storage regulations at the Federal or State level
IV		• Has less than 5 years of experience in underground natural gas storage or the enforcement of underground natural gas storage regulations at the Federal or State level
V		• Has less than 1 year of experience in underground natural gas storage or the enforcement of underground natural gas storage regulations at the Federal or State level

Each State Agency shall ensure the Program Manager or Supervisor is knowledgeable of underground natural gas storage safety technology, enforcement applications, and administrative procedures (i.e. PHMSA Grant-in-aid process, etc.). Each Program Manager or Supervisor shall obtain the necessary knowledge by completing the mandatory TQ courses listed below. If Program Managers or Supervisors also perform inspections, they must meet the requirements for inspectors contained in Section 4.3.1. Program Managers or Supervisors will have a period of five years from the latter of January 1, 2019 or the date of their appointment to complete the required training courses. Supervisor means those individuals as defined in the Glossary. If any post test score of a required course is below 60, the individual must reenroll in the next available class for the required course and achieve a post test score of 70 or above (If the post test score is between 60 and 69 a posttest retake may be completed - see 4.3.2). Course prerequisites must also be met before attending the training class.

- **PHMSA-PL-1325** ***Safety Evaluation of Underground Storage Programs***
- **PHMSA-PL3DA** ***Drug and Alcohol Testing for the Pipeline Industry WBT***

Chapter 60124 requires PHMSA to report the qualifications and number of State Agency pipeline safety staff in its bi-annual report to Congress. This information is collected on Attachment #7 of the annual Progress Report.

4.6 New Program Manager Orientation

PHMSA provides an orientation session for newly appointed Program Managers. PHMSA may also conduct an orientation session for existing Program Managers upon request. Requests for orientation sessions must be provided to the PHMSA Director of State Programs. Orientation sessions will be scheduled upon the availability of resources.

5 Inspection and Compliance Program

5.1 Inspection

Inspections of underground natural gas storage operators must be made in a positive, constructive, and comprehensive manner. States may obtain technical support for addressing any inspection related issues by contacting your State Liaison, Region Director, or Director of State Programs. The effectiveness of the State Agency's underground natural gas storage safety efforts depends on information obtained through inspections and evaluation of operator compliance. Each State Agency must, therefore, have a current written plan for its underground natural gas storage safety program. At a minimum, the plan should include the following eight elements:

5.1.1 Operator Data

Each State Agency must maintain a list of the name and mailing address of each jurisdictional operator. The official address for each operator should be the one to which all underground natural gas storage-safety-related correspondence is sent and considered the official notice to the operator. In addition, information about the underground natural gas storage location and/or service areas should be maintained.

5.1.2 Procedures for determining inspection priorities

Each State Agency must develop a risk-based procedure for scheduling when an Inspection Unit is to be evaluated. PHMSA has developed web based training "PHMSA-PL1RA Introduction to Risk Assessment Methods" to provide background material for understanding risk located at tqonline.sabanow.net/Saba/Web/Main under Web-Based Training. Appendix S (Under Development) of this document contains a sample risk prioritization model that can be followed to incorporate a risk based procedure into a written plan. This procedure should provide for the establishment of an inspection priority list and consider the following data-driven criteria:

- The length of time since the last inspection. A State Agency must complete an inspection of each operator's inspection units within a five-year time interval for the following inspection types:

    1. Standard (General Code Compliance)

2. Drug and Alcohol

- The history of the Inspection Unit (leak history, prior noncompliance, accident/incident history, and any other information available from the operator's annual reports, etc.)
- Internal and external events affecting the Inspection Unit (construction, recent changes in operator personnel or operating procedures, etc.)
- PHMSA Risk Ranking of UNGS Facilities
- Extent of Integrity Testing

5.1.3 Written procedures/guidelines for Inspectors covering each type of required inspection.

To ensure the efficient, effective and consistent completion of state conducted inspection activities the State Agency Underground Natural Gas Storage Safety Program must develop detailed written procedures for reviewing operator compliance with the State and Federal underground natural gas storage safety regulations.

The procedures must provide detailed guidance for inspectors conducting each type of inspection and when appropriate cover the following key inspection activities:

Pre-Inspection Planning

Those activities conducted by the inspector prior to conducting a quality in-depth inspection. Pre-Inspection Planning should include: 1) Directions for acquiring the appropriate documents, forms, equipment, and personal protection equipment needed for the type of inspection being conducted; 2) Directions for reviewing the operator's available information in state files and state/federal databases to become familiar with the operator's system and inspection issues; 3) Conduct a review of previous inspection reports including violations cited to identify past inspection issues; the review may require additional follow-up actions; and 4) Directions for providing operator notification of the inspection, coordinating expectations with the operator, and scheduling the inspection visit. At times there is an opportunity for individual State agencies to collectively conduct inspections of operators that have intrastate underground natural gas storage facilities in multiple states. In this situation, PHMSA encourages State agencies to coordinate with other State Agencies to conduct joint inspections of certain operator plans that are consistent for the participating states. A State Agency wanting to conduct a joint inspection with

another State Agency that occurs outside of their home state can contact the regional PHMSA State Programs Liaisons to assist with any coordination activities.

Occasionally there is an opportunity for a State Agency to collectively conduct an inspection with PHMSA when regulated assets are covered under the same operator programs. In this situation, PHMSA encourages State Agencies and PHMSA Regions to coordinate to conduct joint inspections. A State Agency wanting to conduct a joint inspection with PHMSA that occurs within or outside of their home state can contact the regional PHMSA State Programs Liaisons to assist with any coordination activities.

Inspection Activities

Those activities required for conducting a thorough and comprehensive inspection. Inspection Activities should include: 1) Directions for conducting an opening interview with the operators' representatives present at the inspection; 2) Directions for reviewing operator procedures, records, and underground natural gas storage facilities in the field; 3) Directions for completing inspection documentation; 4) Directions for conducting an exit interview with the operator's representatives; 5) Instructions for documenting the potential enforcement issues found during the inspection and discussion with the operator's representatives on the findings, and; 6) Directions on access to operator's records, underground natural gas storage facilities or requesting from the operator clarification on documentation.

Post-Inspection Activities

Those activities required after an inspection is completed. Post Inspection Activities should include: 1) Verification all required data points are uploaded or entered into the proper state and federal data bases within 60 days; 2) Instructions for the gathering and updating new information concerning the operator; 3) Detailed instructions for completion and filing all necessary paperwork as a result of the inspection, including time limits for processing probable compliance/enforcement action; 4) Detailed instructions for the retention of inspection records and documents including date of destruction if required.

5.1.4 Written procedures that provide for methodical, systematic, comprehensive, and consistent inspections.

To properly conduct an inspection of an operator's facilities, an inspector shall utilize an inspection form or checklist referenced to the applicable Federal and/or State regulations. Federal Inspection forms will be updated at times

when PHMSA issues regulatory changes. The most recent inspection form revision can be accessed in the PHMSA Common Forms section of FedSTAR. At a minimum, an inspection plan should cover the following types of inspections:

- Standard (General Code Compliance) – a comprehensive and thorough review of an operator's compliance records, operation and maintenance plans/procedures, emergency procedures, drug and alcohol programs, and underground natural gas storage facilities.
- Specialized – inspections targeting specific code requirements
- Construction – this includes construction activities, evaluation of design and the integrity testing of new or replacement facilities.
- Investigating Incidents – this would include any Incident investigation activities including any pertinent follow-up investigative activities.
- Compliance Follow-up – inspections or evaluations to determine if an operator has completed actions from a previous inspection or compliance action.

5.1.5 Procedures for notifying an operator when noncompliance is identified.

Upon completion of an inspection, the State Agency shall— (1) within 30 days, conduct a post-inspection briefing with the owner or operator of the underground natural gas storage facility inspected outlining any concerns; and (2) within 90 days, to the extent practicable, provide the owner or operator with written preliminary findings of the inspection (Inspection findings are defined as being the conclusions reached after the investigation is complete). An inspection, where a noncompliance is found, is considered complete as soon as practical after all data or necessary information is reviewed and/or gathered to substantiate whether nor not compliance requirements have been met. This may be prior to the completion of the review of all compliance requirements of an operator and the State Agency should ensure findings are issued promptly after the review of any individual items is complete. In the event there are no findings associated with an operator inspection, the State Agency should refer to its procedure on inspection closure. State Agencies will be required to report the number of days they have exceeded the 30 day or 90 requirements for an individual operator when requested by PHMSA. The written notice shall be to a company officer if the operator is a private

corporation or to the chief executive officer of a locality (e.g. – mayor of a municipality, chairman of the board of a quasi-governmental unit such as a utility district). The written notice should also include applicable civil penalties in which the operator may be subject to for failure to comply with regulations. The operator shall be notified immediately of any hazardous or unsafe situation discovered during the inspection. The State Agency compliance procedures must include that the operator provide a written response within a specified time period for correcting probable violations. The procedures shall include the types of enforcement proceeding available to the State. Examples of enforcement proceedings may be Warning Letters, Notice of Probable Violation, and Compliance Orders. Each enforcement proceeding will have a brief description of the process and when it should be used.

5.1.6 Procedures for follow-up activities to ensure that proper corrective action has been taken by the operator within a specific time frame after notification of noncompliance.

Depending on the seriousness of the noncompliance and the circumstances involved, a written response from the operator documenting the corrective actions taken may be sufficient. The State Agency must conduct follow-up actions when noncompliance is discovered during an inspection. The determination of the appropriate procedure for ensuring that all noncompliance is corrected is the responsibility of the State Agency. However, the State Agency must maintain a complete record of each noncompliance found and have a review procedure that will ensure that proper and timely follow-up activity has been completed for each noncompliance. Procedures should outline when the program considers probable violations are closed. This information will be reported on Attachment 5 of the Progress Report. Probable violations still pending at end of each calendar year will be reported as carryover probable violations on the Progress Report Attachment 5.

5.1.7 Recordkeeping procedures to document the results of inspection, follow-up, and compliance actions taken.

The State Agency must keep records of all underground natural gas storage safety inspections and follow-up activities. Inspection records should include the inspection dates, the operator/inspection unit, the name of the inspector, the location and type of facilities inspected, the names and titles of operator staff contacted at the inspection unit, the regulation sections checked for compliance, and the resulting evaluation conclusions. Follow-up records should include all correspondence or other contact between the State Agency

and the operator, the results of follow-up inspections, and other information necessary to demonstrate that the noncompliance has been corrected.

An important aspect of any State Agency's compliance program involves the gathering of the necessary evidence for documenting noncompliance. After each inspection, the findings should be documented and include an account of the situations encountered during the inspection and a copy of the inspection checklist. The documentation must identify and describe each regulation with which the operator is believed to be in noncompliance. Copies of relevant operator records, statements from operator personnel, photographs, calculations, and all other data pertaining to each issue of noncompliance should be made a part of the documentation.

5.1.8 Procedures for State Agencies with a Section 60105 Certification

When formal compliance action is not deemed appropriate, the State Agency may take informal action such as notification letters or reports detailing noncompliance discovered. The notification letters should contain a statement of the State Agency's enforcement authority and authorized civil penalty amounts provided by state statute. In informal actions, the operator should be provided an opportunity to respond to the allegations. Because of the wide variation in State laws and administrative procedures, each State Agency must summarize its formal compliance process in the State Agency's written program procedures.

5.1.9 Procedures for State Agencies with a Section 60106 Agreement

A State Agency operating under the authority of an Agreement of 49 U.S.C. Chapter 601 is a limited representative of PHMSA. A copy of the inspection documentation identifying a probable non-compliance along with associated evidence, in a format acceptable to the PHMSA UNGS Team, must be submitted within 60 days of the end of the field inspection to Cynthia Ishikawa, PHMSA at: Cynthia.ishikawa@dot.gov or mailing address below. The State Agency should also advise the operator that there is a reason to believe that a possible noncompliance exists and that this issue has been referred to PHMSA for further action.

Cynthia Ishikawa
PHMSA Pipeline Safety Western Region Office
3401 Centrelake Drive, Suite 550B
Ontario, CA 91761

If, after reviewing the available information, PHMSA determines that a noncompliance does exist, PHMSA will notify the operator in writing and proceed with appropriate compliance action. The State Agency will be sent a copy of the notice letter and will be kept informed of the case progress and resolution.

5.2 PHMSA Orders to Operators

If PHMSA decides that an underground natural gas storage facility is hazardous, PHMSA will order the operator to take necessary action. On occasion, PHMSA will waive the requirements for notice and a hearing, and will immediately issue a Corrective Action Order. This action is taken when PHMSA decides that failure to issue an order expeditiously would result in serious harm to life, property, and/or the environment. After the order is issued, the operator will have an opportunity for a hearing. If the issues affect several operators PHMSA may issue an Emergency Order requiring corrective actions to be taken to protect life, property, and the environment.

6 Failure Investigation and Safety-Related Conditions

6.1 Investigation of Underground Natural Gas Storage Failures

Pursuant to Federal/State regulations, a State Agency shall conduct an investigation of each significant or reportable incident involving jurisdictional underground natural gas storage facilities. The primary objective of the investigation activities is to identify the probably casuse of the incident and minimize the possibility of recurrence for the operator and other operators under the state's jurisdiction and to institute enforcement action where noncompliance with the safety standards has occurred.

PHMSA will notify the State Agency when it receives a National Response Center (NRC) report of an incident involving an underground natural gas storage facility in that State. PHMSA's Accident Investigation Division (AID) National Pipeline Incident Coordinator (NPIC) will relate all details of the failure provided to PHMSA. The NPIC's goal is to initiate the investigation within 15 minutes after receipt of a NRC incident report. If the State Agency cannot be reached promptly, the NPIC will contact the operator directly. For less time-sensitive incidents, if the State Agency cannot be reached, the NPIC will wait one hour before directly contacting the operator. The NPIC may call the operator directly when the Federal/State jurisdiction is uncertain. Upon notification of a reportable incident from the operator, the State Agency may make an immediate e-mail statement to the NPIC at PHMSAAccidentInvestigationDivision@dot.gov that they have received the report, are deploying or not deploying to the incident site to investigate, and are working to gain additional information to provide to the NPIC. During the telephonic investigation phase, the State validates preliminary information, obtains additional information, evaluates the severity of the incident and the underground natural gas storage operator's response, and disseminates the information to the NPIC.

The State Agency and AID staff should maintain close contact until the investigation is completed. The State Agency should communicate its plans for investigating the incident to the AID at **(888) 719-9033** and provide updates as directed by the AID.

Because Federal and State authority varies and because the PHMSA and the National Transportation Safety Board (NTSB), have authority regarding

underground natural gas storage failure investigations, attention must be focused on the jurisdictional responsibilities during investigations.

On-scene investigations:

For intrastate underground natural gas storage incidents where the State is the lead regulator, PHMSA typically only participates in the on-scene investigation if an event results in a fatality or significant evacuation of the population, if the State requests assistance, or if the NTSB or other federal agency deploys.

For interstate underground natural gas storage incidents where the State is an interstate agent, the AID Director will decide whether AID or the State will lead the on-scene investigation, but the State will always have the option to participate.

A State Agency may investigate a failure on an underground natural gas storage incident subject to regulation by PHMSA if the AID Director establishes a Time Defined Project Specific Agreement with the State.

Irrespective of the team composition, the chain of command and communication channels remain the same for PHMSA staff. The PHMSA Lead On-scene Investigator reports to the AID Director for all issues related to the incident. All communications to and from the field are channeled through the NPIC. When the State is the lead regulator, they report up through State chain of command and provide the NPIC with updates.

On-scene team members' roles and responsibilities are provided in Table 1: Responsibilities Matrix for On-Scene Investigations. The responsibilities for team members depends on who is the lead regulator and the composition of the on-scene team.

- State jurisdiction (under 49 USC 60105 Certification)
- State jurisdiction (under 49 USC 60106 Agreements)
- PHMSA jurisdiction
- NTSB deploys

Table 1 - Responsibilities Matrix for On-scene Deployments

Responsibilities Matrix for Personnel at On-scene Investigations	Lead Investigation	Support Investigation	Write Failure Investigation Report*	Complete CAO Data Report*	Complete Violation Report*	Inspect for Compliance	Lead Oversight of RCFA	Oversight of Enforcement Actions Including Return-to-Service Plan
State jurisdiction (under 60105 certifications)								
State Pipeline Safety Agency Only	State	NA	NA	NA	NA	State	State	State
State and AID	State	AID	NA	NA	NA	State	State	State
State and Region	State	Region	NA	NA	NA	State	State	State
State, AID, and Region	State	Both, AID Lead for PHMSA	NA	NA	NA	State	State	State
State jurisdiction (under 60106 agreements)								
State Pipeline Safety Agency Only	State	NA	State	Region	Region	State	State	Region
State and AID	Event Specific	Event Specific	AID	AID	AID	State	State	Region
State and Region	Event Specific	Event Specific	Region	Region	Region	State	State	Region
State, AID, and Region	Event Specific	Event Specific	AID	Region/ AID	Region/ AID	State	State	Region
OPS jurisdiction								
AID Only	AID	NA	AID	AID	AID	Region	AID	Region
Region Only	Region	NA	Region	Region	Region	Region	Region	Region
AID and Region	AID	Region	AID	Region/ AID	Region/ AID	Region	AID	Region
NTSB deploys								
State (60105) and AID	NTSB	State	NA	AID	AID	State	NTSB	State
State (Interstate Agent) and AID and/or Region	NTSB	Both, AID Lead for PHMSA	NA	Region and/or AID	Region and/or AID	State	NTSB	Region
AID	NTSB	AID	NA	AID	AID	Region	NTSB	Region
AID and Region	NTSB	Both, AID Lead for PHMSA	NA	Region/ AID	Region/ AID	Region	NTSB	Region

*Or State's equivalent form. **NTSB leads the investigation and has priority over others' investigation. They coordinate resources and prepare the written investigation report. PHMSA may obtain information directly from parties involved in, and witnesses to, the failure, provided they do not interfere with the NTSB's investigation. PHMSA does not write a report when NTSB deploys.

NTSB will also investigate intrastate underground natural gas storage incidents under their safety authority, so State Agency staff should cooperate in their investigation and be aware of the NTSB's responsibilities and authorities. In those investigations of intrastate facilities where a State Agency and the NTSB participate, the NTSB and State Agency authority is concurrent. The State may choose to be a Party to the NTSB investigation, but should also conduct its own independent investigation of the incident to identify violaitons of the federal and state regulations. The State Agency should execute its enforcement responsibilities regardless of NTSB involvement. PHMSA's Accident Investigation Policy (AIP) which provides further documentation of Federal/State cooperation resides in Appendix E.

NTSB Authority:

The National Transportation Safety Board is an independent Federal agency charged by Congress with investigating every civil aviation accident in the United States and significant accidents in other modes of transportation – railroad, highway, marine and pipeline. The NTSB determines the probable cause of the accidents and issues safety recommendations aimed at preventing future accidents. In addition, the NTSB carries out special studies concerning transportation safety and coordinates the resources of the Federal Government and other organizations to provide assistance to victims and their family members impacted by major transportation disasters.

The NTSB designates other organizations or corporations as parties to the investigation. The NTSB has complete discretion over which organizations it designates as parties to the investigation. Only those organizations or corporations that can provide expertise to the investigation are granted party status and only those persons who can provide the Board with needed technical or specialized expertise are permitted to serve on the investigation; persons in legal or litigation positions are not allowed to be assigned to the investigation. All party members report to the NTSB. Eventually, each investigative group chairman prepares a factual report and each of the parties in the group is asked to verify the accuracy of the report. The factual reports are placed in the public docket.

Safety recommendations are the most important part of the Safety Board's mandate. The Board must address safety deficiencies immediately, and therefore often issues recommendations before the completion of investigations.

6.2 Basic Investigative Procedures

To conduct an effective incident investigation, State Agency staff must be familiar with basic investigative procedures. An investigation requires a thorough knowledge of the design, construction, operation, and maintenance factors involved in underground natural gas storage safety. State Agencies may request technical support from PHMSA for conducting incident investigations by contacting the State Liaison or Director of State Programs.

6.3 Incident Investigation Procedures

Each State Agency should keep adequate records of notifications of all incidents received. If an onsite investigation of an incident was not made, the state should obtain sufficient information by other means to determine the facts and support the decision not to go on-site. Each State Agency should also have a mechanism for receiving and responding to after-hours notifications as necessary.

Investigations shall be thorough with conclusions and recommendations documented in an acceptable manner. In addition, Certified State Agencies should initiate any applicable enforcement action for violations found during incident investigation(s). Each State Agency with an Agreement should assist PHMSA in gathering evidence necessary to support enforcement actions. State Agencies should be taking appropriate follow-up actions related to the operator incident reports to ensure accuracy and that the operator's final report has been received by PHMSA.

6.4 Safety-Related Conditions

An underground natural gas storage operator is required to file a Safety-Related Condition Report (SRCR) with PHMSA under 191.23 and 191.25 whenever a condition exists that cannot be corrected within 5 working days after the operator determines that a condition exists but not later than 10 working days after the operator discovers the condition.

After the operator files this report, PHMSA will forward a copy of the Safety-Related Condition Report to the State Agency. When this issue involves a underground natural gas storage jurisdictional to the State Agency, the State Agency will file all follow up documentation with the PHMSA Region Director. The Program Manager should coordinate with the PHMSA Region Director for follow up reporting requirements. Open safety-related condition reports require update reports to be submitted to the Region Office every 30 days until the safety-related condition report is closed. Status reports can be viewed by accessing PHMSA's Pipeline Data Mart (PDM).

https://pdm.phmsa.dot.gov

7 State Agency Program Performance

PHMSA uses two means to assess a State Agency's overall performance in the underground natural gas storage safety program - an annual Program Evaluation, and a review of information attached by the State Agency to its annual Progress Report. The evaluation is used primarily to determine performance (e.g., operating practices, quality of State Agency inspections, investigations, compliance actions and adequacy of recordkeeping). The Progress Report attachments are used primarily to determine the State Agency's compliance with program requirements (e.g., extent of jurisdiction, inspector qualifications, number of inspectors, number of inspection person-days, adoption of applicable Federal regulations and attendance at Federal/State meetings). A State Agency's performance is the major factor considered in allocating grant-in-aid funds each year.

7.1 Annual Program Evaluation

The PHMSA annual Program Evaluation is a review of the State Agency's underground natural gas storage safety program. It includes an examination of State Agency policies, plans, procedures, and records of the previous calendar year as well as the observation of the field inspection of an underground natural gas storage operator.

PHMSA communicates changes to the Program Evaluation form with the Program Managers prior to the beginning of each calendar year. PHMSA will make available a copy of the final form to each State Agency in the PHMSA Common Forms section of FedSTAR. PHMSA PHP-50 personnel should notify the State Agency in advance of the schedule for the annual Program Evaluation to ensure that the State Agency has adequate lead-time to prepare.

The State Agency's underground natural gas storage safety program will be evaluated for conformance with the procedures in this manual as well as any other specific policies and procedures PHMSA provides to the State Agency. The Program Evaluation will include the following:

7.1.1 Verification of Progress Report attachments

PHMSA PHP-50 personnel will review for completeness and accuracy the information provided by the State Agency in the attachments to its most current Progress Report.

7.1.2 Record review

PHMSA PHP-50 personnel will review the administration of the program and associated records to support program activities. PHMSA PHP-50 staff will

also evaluate the State Agency's financial/budget information submitted in support of the grant-in-aid funding.

7.1.3 Field inspection

PHMSA PHP-50 personnel will observe the State Agency's inspection of at least one intrastate Inspection Unit. If possible, a different inspector, operator, and geographic area should be observed each year.

7.1.4 Communication of Findings to State Program

PHMSA PHP-50 will conclude the Program Evaluation with a verbal performance review addressing major strengths and weaknesses of the program. Within 60 days after the on-site review, the Director of State Programs should send a letter to the State Agency's Chairperson (or equivalent) with a copy to the Program Manager detailing the program's effectiveness in meeting the terms in the State Agency's Certification/Agreement and any policy problems (e.g., overall program performance, jurisdiction status over intrastate operators, staffing level, equipment to carry out program functions, major budgetary or travel restrictions, initiative in seeking necessary legislation or adopting required regulations). Where appropriate, the letter will include recommendations for program improvement. If required, the State Agency's Chairperson will be requested to respond in writing within 60 days and describe actions the State Agency proposes to take to address program deficiencies. The Director of State Programs, when appropriate, will include in the letter the contributions and participation in various committees and work groups of the Program Manager and State Agency underground natural gas storage safety staff. ***Failure to respond in writing within the required timeframe will result in a loss of performance points in the following year's evaluation.***

PHMSA PHP-50 will also send a copy of the evaluation report and a letter to the Program Manager addressing programmatic problems (e.g., average number of inspection person-days less than 85 for each full-time inspector, insufficient documentation of inspection forms and records, incorrect completion of Progress Report attachments, inadequate administrative enforcement procedures, or poor staff communication).

7.2 Compliance with Program Requirements

PHMSA PHP-50 personnel annually review each State Agency's program performance using the PHMSA Program Evaluation Form. As part of the annual review, the evaluator validates information submitted on the Annual Progress Report. A State Agency must respond to questions regarding its compliance with various Federal requirements. If a requirement is not applicable, the State Agency indicates it is not applicable on the Progress Report and the PHMSA Evaluator notes it where applicable on the PHMSA Program Evaluation Form.

If a Federal regulation has been adopted, the State Agency indicates the date adopted on the Progress Report. If a Federal regulation has not been adopted, the State Agency must either describe on the Progress Report the steps it is taking toward adoption or explain why it is not taking steps toward adoption.

The annual Progress Report validated during the State Evaluation also requests data on the civil penalty levels in effect in the State as of December 31st of the evaluation year, and the frequency of the general legislative session. Information on the general legislative session is taken into account when determining if applicable Federal regulations have been adopted within 24 months of the effective date or within two general sessions of the State Legislature.

For a State Agency to be given credit for taking steps to adopt a regulation, the regulatory action, bill in committee or docket before agency, must be verifiable and in process prior to the end of the first 24 months or two legislative sessions after the applicable regulation becomes in effect. Any regulations not meeting this requirement will not be considered adopted until actual legislation is signed into state law.

7.3 Recordkeeping

Recordkeeping is vital to the operation of an underground natural gas storage safety program. State Agency program files shall be well organized and accessible (this includes electronic files) At a minimum, the following records should be maintained by the State Agency for a period of at least three years from the annual grant closeout date, which is receipt of the Year-End (Final) Payment Request, or as long as the respective State Agency requires. (See 2 CFR 200.333))

1. Written program procedures (see Chapter 5)
2. Inspection reports
3. Compliance actions
4. Incident/accident reports
5. Copies of past Progress Report records
6. Copies of past grant-in-aid funding
7. Staff training
8. Correspondence

9. Safety-Related Condition Reports
10. Information notices sent to operators

8 DOT Grant-in-Aid Program

This chapter describes the application and submission procedures and grant management requirements a State Agency must follow to receive the benefits of the underground natural gas storage safety grant program. It is intended to assist State Agencies in applying for and administering Federal grant funds authorized by Chapter 601 Title 49 of the United States Code.

8.1 Scope of Grant

The scope of the grant is to support up to 80 percent of the cost of personnel, equipment and activities reasonably required to carry out inspection and enforcement activities of intrastate underground natural gas storage facilities under a Certification or Agreement with PHMSA. The activities covered are those specifically for the inspection of underground natural gas storage facilities to ensure compliance and enforcement as necessary of applicable chapters of Title 49 of the Code of Federal Regulations (CFR).

8.2 Address

Unless directed otherwise by the Director of State Programs, all correspondence concerning the grant program should be addressed to:

ATTN: Angela Sung
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Pipeline Safety PHP-50
1200 New Jersey Avenue, SE Second Floor E22-321
Washington, D.C. 20590
Telephone Number: (202) 366-4595

To avoid damage from DOT's package threat scanning process, all correspondence should be shipped through non US Postal Service shippers such as FedEx, UPS, etc. A PDF of all Grant correspondence should also be sent to the Director of State Programs.

8.3 Eligibility

To qualify for Federal grant funds under Section 60107 of Chapter 601, a State Agency must participate in the underground natural gas storage safety program either under Certification in accordance with Section 60105 or under an Agreement in accordance with Section 60106 of Chapter 601 Title 49 of the United States Code.

8.4 General Obligations

The State Agency assumes responsibility for the administration of the grant program through the application of sound management practices and for seeing that program funds have been expended and accounted for in accordance with program objectives, the *Payment Agreement (Notice of Grant Award)*, these *Guidelines*, 2 CFR 200 and any other applicable Federal rules and regulations.

In recognizing its own unique combination of staff, facilities and expertise, each participating State Agency has the primary responsibility for employing the organization and management techniques necessary to assure proper and efficient administration of the program.

8.5 Application

The purpose of the *Grant Application* is to provide PHMSA with information concerning the State Agency's need for Federal financial support for its underground natural gas storage safety program. PHMSA will make an application available to each State Agency in August of each year. The deadline for filing this application is September 30th. (**Note: This is a non-negotiable deadline established in Chapter 601 Title 49 of the United States Code. Failure to return the application by this date may result in the loss of grant funds**.) To assist PHMSA in determining the funding needs of all State programs, those State Agencies that decide NOT to apply for grant funds are also requested to notify PHMSA by September 30th. If PHMSA determines that an application is incomplete or insufficient to qualify, PHMSA will advise the State Agency of the reason for the disapproval. The State Agency must then take appropriate corrective action prior to reapplying.

The Grant Application, which is made available in FedSTAR (https://fedstar.phmsa.dot.gov/FedSTAR/default.aspx), is furnished to each State Agency by PHMSA contains multiple sections. These include:

8.5.1 Attachment #1: Description of State Underground Natural Gas Storage Safety Program.

This attachment requires a description of all ongoing and planned underground natural gas storage safety program activities for which grant reimbursement is requested. This summary must clearly indicate the types of actions to be performed and contain sufficient details to justify the proposed budget. This should include but is not limited to the applicable items from the following list:

- Program Description
  - Number of Storage Fields
  - Number of Total Wells

  - Type of Storage (Salt Cavern, Depleted Hydrocarbon Reservoir, and Aquifer)
  - Number of Inspection Units
  - Number of Operators
  - Maximum Inspection Frequency
- Expected number of inspection days during upcoming calendar year
  - Summary of Inspection Work Plan
  - Number of Inspections Planned
  - Notations should be made of any special projects, etc.
- Notable program activities to be conducted during upcoming calendar year
  - Major construction projects
  - Major enforcement cases that are expected to take large amounts of resources

- Any legislative proposed, current, or pending activities

- Listing of Underground natural gas storage Program Staff (Supervisors and Inspectors)– this should include the following
  - Individual Names and titles (enough information should be provided to describe their job duties)
  - If less than 100% what is estimated time to be spent in program
  - Listing of vacancies
  - Listing of hiring expectations
- List of other Administrative Staff
  - Individual Names and titles or functions (enough information should be provided to describe their job duties)
  - Estimated time spent in support of underground natural gas storage program
  - This should include any individuals/positions who will have their salary and benefits submitted as a direct cost applied to the grant reimbursement.
- Listing of projected equipment purchases (this should directly correlate with estimated program budget submitted)
  - This should include automobiles and estimated cost of each
  - Other intended equipment purchases (i.e. printers, computers or related items)
- Any expected contracts for outside services
  - All contracts must be preapproved and will not be reimbursed without prior approval and copies must be submitted to PHMSA State Programs
- Other relevant program information

8.5.2 Attachment #2: Underground Natural Gas Storage Safety Program Estimated Budget.

This attachment requires an estimate of the total expenses related to the State Agency's underground natural gas storage safety program. It should include all costs directly relating to underground natural gas storage safety that the State Agency plans for the next calendar year regardless of the funding source. The estimate should be presented so that the costs for each item are readily identifiable as to the budget categories established on the form. All cost estimates should be as realistic as possible. Accurate estimates will reduce the amount of reallocation necessary at the end of the program year and permit PHMSA to more realistically allocate available funds to all State Agencies. The State Agency must receive pre-approval from PHMSA State Programs in advance of executing any contract (See Professional Service Costs in 9.16.1) or if there is a substantial change to the scope of the underground natural gas storage safety program affecting the approved budget. Copies of any approved final contract should be forwarded to PHMSA State Programs within 30 days of execution.

8.6 Annual Funding Level

After funds have been appropriated by Congress, PHMSA will process the applications and allocate available funds to those State Agencies meeting the program qualifications. Chapter 601 Title 49 of the United States Code limits the Federal contribution to State underground natural gas storage safety programs to not more than 80 percent of total program costs. If Congressional appropriations are insufficient to fund all programs at the 80 percent level, the amount allocated to each State will be determined by PHMSA to distribute available funds equitably as prescribed in 49 CFR Part 198.

8.7 Grant Allocation and Percentage of Funding

THE SCORING/FUNDING MECHANISMS FOR THE UNDERGROUND NATURAL GAS STORAGE GRANT ARE WAIVED DURING THE FIRST YEAR AND WILL BE IMPLEMENTED AS EVALUATION ELEMENTS ARE DEVELOPED AND COMMUNICATED TO ALL PROGRAMS.

PHMSA will provide to all State Agencies a Grant Allocation Document. This document is provided annually between April and June (subject to federal budget appropriations). The underground natural gas storage safety grant allocation is a targeted amount of funding a state program may receive for

activities during a calendar year providing their actual program expenditures meet the budget estimate submitted in their grant application. Otherwise the State Agency will receive the percentage of funding for actual program expenses which is listed on the annual Grant Allocation Document. The percentage of program funding is determined based on the Grant Allocation Formula (see 8.7.1) and the total amount of appropriated funding provided by PHMSA. The maximum amount of any state program funding is capped at 80 percent as noted in the previous section.

8.7.1 Grant Allocation Formula for Grant Award

Underground Natural Gas Storage Safety Grants are awarded based on the following formula:

Grant Award =

State Budget Amount[1] x State Performance Score[2] x Percent Allocation[3]

$$\boldsymbol{Percent\ Allocation}(\mathbf{80\%}\ \boldsymbol{maximum}) = \frac{\boldsymbol{Total\ Available\ Funding}^{4}}{\sum \boldsymbol{All\ Programs}\ \ (\boldsymbol{State\ Score\ X\ State\ Budget})^{5}}$$

8.7.2 State Performance Score

A performance score for each State Agency is developed annually which determines the maximum amount of funding that a program will receive in

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[1] State Budget Amount = Calendar Year Budget Estimate Submitted by each State with Grant Application

[2] Annual State Performance Score Outlined in Section 8.7.2

[3] Percent Allocation – This is the maximum percentage of total program costs that can be applied to each grantee. There is an 80% maximum funding limited required by Section 60107 of the Pipeline Safety Act. This formula provides for an equal distribution of available funds in the event appropriated funding is less than required for maximum funding.

[4] Total Available Funding - This is the annual funding provided by congressional appropriation. This would also include any unexpended (carryover) funds available from previous fiscal years.

[5] The combined sum of each State Performance Score multiplied by each State Budget Estimate for all Gas and Hazardous Liquid programs.

each calendar year for which a grant application was submitted. The score can be waived by the Director of State Programs as required to implement program initiatives and improve overall safety program. The formula, outlined in 49 CFR 198.13, is based on state program performance and has a maximum of 100 performance points derived as follows;

1. Fifty points[6] based on information provided in the state's annual Progress Report attachments which document its activities for the past year (TBD); and

2. Fifty points[7] based on the annual state Program Evaluation as described in Section 7.1. A State Agency will have one year from written notification to correct deficiencies found during an annual state Program Evaluation before a reduction is applied to its 50-point maximum. Evaluation forms are included as Appendix I (TBD).

8.7.3 Performance Factors

PHMSA assigns weights to various performance factors reflecting program compliance, safety priorities, and national concerns identified by PHMSA and communicated to each State Agency. At a minimum, PHMSA considers the following performance factors in allocating funds:

1. Adequacy of state operating practices; Quality of state inspections, investigations. and enforcement/compliance actions;

2. Adequacy of state recordkeeping;

3. Extent of state safety regulatory jurisdiction over underground natural gas storage facilities;

4. Qualifications of state inspectors (consideration will be given to qualification results impacted by inspection staff growth);

5. Number of state inspection person-days;

6. State adoption of applicable federal underground natural gas storage safety standards; and,

[6] First fifty points of allocation are based on PHMSA Headquarters evaluation of information received from progress report documents of the previous calendar year of program activities.

[7] Second fifty points of allocation are based on State Program Evaluation conducted during previous calendar year.

7. Any other factor the Administrator deems necessary to measure performance.

For the first three years an underground natural gas storage safety program exists or for two years when a State Agency reenters the state grant program, the State Agency will be funded at a level typically not over 90 percent of maximum funding. This is due to the inability to accurately judge program performance of the State Agency in determining their evaluation score. In addition, State Agencies will also be subject to point deductions for late submission of the annual Progress Report document. Two points will be deducted on Progress Report score if the document is submitted after the due date, and four points if more than 30 days late.

Grants are limited to the appropriated funds available. If total State Agency requests for grants exceed the funds available, the Administrator prorates each State Agency's allocation. This prorated percentage will serve as the maximum funding level available to each State Agency based on actual expenses.

Exhibit 8-1 – Grant Allocation Funding Example

Natural Gas 2017	CY 2016 Progress Report Score	2015 Modified Program Evaluation Score Conducted in 2015	State Score %	CY 2017 State Estimated Program Costs	Allocation (Payment Agreement - Total Grant Award)	Maximum Allocation Percentage
ALABAMA	50.00	100.00	100.00%	$ 1,608,136.00	$ 951,945.00	59.20%
ARIZONA	50.00	100.00	100.00%	$ 1,714,436.00	$ 1,014,870.00	59.20%
ARKANSAS	50.00	100.00	100.00%	$ 897,964.00	$ 531,555.00	59.20%
CALIFORNIA_PUC	43.00	97.48	91.74%	$ 7,398,477.00	$ 4,017,817.00	54.31%
COLORADO	50.00	100.00	100.00%	$ 725,130.00	$ 429,245.00	59.20%
CONNECTICUT	50.00	100.00	100.00%	$ 1,378,690.00	$ 816,123.00	59.20%
Totals				**$ 87,687,512**	**$ 50,559,000.00**	**57.66%**

Exhibit 8-2 – Grant Allocation Explanation

Progress Report Score – This is the score of progress report activities as outlined in Appendix Q (TBD).
Modified Program Evaluation Score – This is the state performance score, as outlined in 8.7.2 (2).
State Score % – Total score as outlined in 8.7.2.
Estimated Program Costs – This is the estimated program funding or budget; each state submits with the grant application for the respective calendar year.
Allocation - This is the maximum amount, prorated as necessary, that a state can expect to receive in federal funding if actual program costs are equal to or exceed program budget. The maximum allocation is capped at 80%.
Maximum Allocation Percentage – This is the maximum percentage of actual program costs that a state program can expect to receive. The allocated amount is only received if actual expenditures meet or exceed the original budget estimate. If actual costs of the state program exceed the original estimate, PHMSA will pay additional amounts pending availability of funding (from over estimates of other programs) and the state program adequately explains the budget variance.

8.8 Payment Agreement (Notice of Grant Award)

The purpose of the *Payment Agreement (Notice of Grant Award)* is to notify the State Agency of the allocated amount of the Federal grant for the calendar year. PHMSA will reimburse the State Agency up to the amount specified in this agreement, or up to the state specific maximum percentage of actual program expenses noted in the grant allocation document, whichever is less. Exhibit 8-1 is an actual example of a grant allocation with an explanation of what a State Agency can expect for funding following in Exhibit 8-2. Two original copies of the *Payment Agreement (Notice of Grant Award)*, signed by the Associate Administrator for pipeline safety, will be distributed to the State Agency by PHMSA between April and July of each year (pending appropriation availability). An authorized State official must sign all copies of the agreement. One original copy should be retained by the State Agency. The other original copy must be returned to PHMSA within three weeks of receipt.

The Payment Agreement (Notice of Grant Award) includes a comprehensive listing of "Award Terms and Conditions", which must be reviewed thoroughly and complied with as a condition of receiving financial assistance.

In support of the Payment Agreement (Notice of Grant Award), PHMSA provides the following information to all State Agencies:

1. *Grant Funding Score* – This document is sent to each state which outlines expected funding score used for each calendar year. This document outlines progress report scoring along with specific funding

deductions from the annual evaluations as outlined in 8.7.2 (2) and is sent in advance of Grant Allocation document.

2. *Underground Natural Gas Storage Grant Allocation*. This attachment lists the Underground Natural Gas Storage budget estimates, State points, allocations, and percentages of total program funding. An example of this document is provided in Exhibit 8-1 and is also provided as part of the Payment Agreement.

8.9 Certification Regarding Lobbying and Disclosure of Lobbying Activities

Section 319 of Public Law 101-121 prohibits recipients of Federal grants from using appropriated funds for lobbying the Executive or Legislative branches of the Federal government in connection with a specific grant. This section of Public Law also requires each grantee who receives a Federal grant exceeding $100,000 to disclose lobbying activities. **If a State Agency receives grant funding in excess of $100,000**, PHMSA will provide the State Agency with two copies of the *Certification Regarding Lobbying and Disclosure of Lobbying Activities* forms and a copy of the *New Restrictions on Lobbying*; *Interim Final Rule*. One copy of the Certification form must be completed by the State Agency and returned to PHMSA within three weeks of receipt. If applicable, a State Agency must also complete and submit a disclosure form.

8.10 Mid-Year Request for Reimbursement

Federal reimbursement is based on ***actual*** cash expenditures, which can be substantiated with auditable receipts, incurred by the State Agency in support of its underground natural gas storage safety program between January 1 and December 31 of each year. Each June, PHMSA will make available *OMB Standard Form 270 - Request for Advance or Reimbursement* to each State Agency for submission of mid-year reimbursement requests. If a State Agency desires mid-year payment, it may return one copy of the completed form to PHMSA within four weeks of receipt. The form must be signed by an authorized official. Program expenses included on this form may only be for the six-month period between January 1 and June 30. If a State Agency prefers to be reimbursed for expenses only at year-end, it may disregard the mid-year request form and include all program costs on the year-end request.

8.11 Year-end Request for Reimbursement and Cost Summary

In January of each year, PHMSA will make available in FedSTAR *OMB Standard Form 270* - Request for Advance or Reimbursement to each State Agency for submission of total program costs for the previous calendar year. In completing the year-end request, the State Agency should include all costs

incurred in the underground natural gas storage safety program for the entire previous calendar year (January 1 - December 31) regardless of whether a mid-year request was submitted or whether the actual costs exceed the amount specified in the Payment Agreement (Notice of Grant Award). One copy of the completed form must be returned to PHMSA within the established time frame, which is approximately four weeks of the date of receipt. In addition to the year-end Request for Reimbursement, the State Agency is required to submit a Underground Natural Gas Storage Program Cost Summary on forms supplied by PHMSA. This summary includes a comparison of the estimated budget figures submitted with the original Grant Application and final expenses incurred for the program.

Requests for reimbursement submitted by each State Agency are reviewed and approved by PHMSA before being forwarded to the DOT accounting office for payment. Variances of more than 10% or $10,000 in each cost category require a written explanation as to the reasons for the differential. When the request has been paid by the accounting office, PHMSA will electronically notify the State Agency/Program Manager of the amount of the payment and date paid. Payments are made electronically through an automatic clearinghouse. If the State Agency has any questions or problems with receipt of payment, it should contact PHMSA immediately.

It is important to note that PHMSA presumes that the mid-year and year-end reimbursement requests are complete and accurate and include all eligible costs for the entire grant period. All expenses filed with both the mid-year and year-end payment processes must be from auditable receipts and accounted for on a cash basis. *In addition, the year-end reimbursement is considered the grant close-out for the applicable period. Once the final request for reimbursement is received and processed,* ***PHMSA is not obligated to make any additional payments for costs which were incurred by the State Agency but not claimed on the request.***

8.12 Special Initiatives

Occasionally special initiatives are issued by PHMSA. Special initiatives are for a limited purpose and funding is handled separately from the basic annual grant. PHMSA will distribute documents describing the purpose of the initiative and requirements for participation.

8.13 Withholding of Grant Funds - Suspension and/or Termination of Grants

In accordance with Chapter 601 Title 49 of the United States Code, PHMSA may withhold all or part of a grant when it determines that the State Agency is not satisfactorily administering a safety program under a Certification/Agreement. Part or all the grant payment may be withheld or the

grant may be suspended and/or terminated if PHMSA determines that a State Agency has failed to comply with program requirements. These actions will be taken by PHMSA only after notice to and consultation with the affected State Agency. Payments made to State Agencies or recoveries by PHMSA will be in accordance with the legal rights and liabilities of both parties.

PHMSA or the State Agency may also terminate all or part of the *Payment Agreement (Notice of Grant Award)* when both parties agree that the continuation of the project would not be commensurate with the further expenditure of funds. The two parties must agree upon the termination conditions including the effective date and, in all cases of partial termination, the portion to be terminated.

8.14 Deposit of Grant Funds

Underground natural gas storage safety grant funds do not need to be separately accounted for as Federal funds. A State Agency is not required to deposit these funds in a separate bank account apart from other funds administered by the State. Any bank account established for receipt of Federal funds must hold insurance coverage from the Federal Deposit Insurance Corporation (FDIC) and the balance exceeding the FDIC coverage must be collaterally secured.

8.15 Eligibility of Program Costs

State Agency program costs shall clearly relate to the program budget submitted with the grant application. State Agency program costs shall also be consistent with 2 CFR Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Care shall be exercised in incurring costs to assure that all expenditures are authorized in accordance with these general standards, and meet the following criteria of eligible costs.

8.15.1 Direct Costs

Direct costs are those that can be identified specifically with the State's underground natural gas storage safety inspection and compliance program. Costs which are shared with other organization programs or other agencies cannot be assigned directly to the underground natural gas storage safety grant program, (i.e. costs calculated on a pro-rata basis) should not be assigned as a direct cost, but may qualify as part of an indirect cost plan. The following direct cost categories are typical to a underground natural gas storage safety program.

- **Compensation, including benefits, of employees for time and effort specifically devoted to the underground natural gas storage safety program (§ 200.430/§ 200.431).**

- Cost for Supervisory personnel shall be for individuals listed on annual Progress Report and costs applied to program should correspond with percentage of time allocated. Any supervisory cost above that of the underground natural gas storage Program Manager can only be included as a direct cost if actual time and work performed is documented toward a program activity and approved by PHMSA OPS Director of State Programs otherwise it can be included as an indirect cost.

- Cost for Inspection/Investigation personnel shall only be for individuals listed on annual Progress Report and costs applied to program should correspond with percentage of time allocated.

- Cost for Damage Prevention/Technical personnel shall be only for individuals listed on annual Progress Report and costs applied to program should correspond with percentage of time allocated. This can include technical support personnel, GIS personnel, and others ***directly*** related to the underground natural gas storage safety program. Cost for personnel devoting time to things other than underground natural gas storage safety such as electric, water or telephone issues should not be applied to the underground natural gas storage safety program.

- Cost for Administrative (clerical) personnel shall be for individuals listed on annual Progress Report and costs applied to program should correspond with percentage of time allocated. If applicable, costs for personnel who might solely supervise administrative personnel should be included in this category.

- In support of salaries and wages, each program must comply with requirements listed in 2 CFR 200. Where direct time of an employee is applied to the underground natural gas storage safety base grant, this must be supported by periodic certification that the employee worked solely in the program. These certifications must be prepared at least semi-annually and will be signed by the employee or supervisory official having firsthand knowledge of the work performed by the employee. When employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports (PARs) or equivalent documentation. A PAR is a timesheet or log maintained by the employee that accounts for 100% of their time and prepared, signed and dated at least monthly.

- Individuals whose direct time is charged to grant should be within program direct line of reporting as outlined in the program organizational chart. Individuals within other reporting lines are likely considered indirect costs.

- **Cost of materials and supplies acquired, consumed or expended specifically for the purpose of the grant. (less than $5000 individual value)**

  - Supplies (**§ 200.453/§ 200.314**) - General office supplies such as paper, file folders and other office organizing items.

  - Safety Clothing (**§ 200.453/§ 200.314**) - Any Personal Protective Equipment (PPE) for conducting field inspections. Eye protection, hard hats, ear

protection, flame retardant clothing for field use, safety boots, rain gear etc. Normal clothing for time spent in office environment should not be included.

- Testing/Inspection Equipment (**§ 200.439**) - Materials such as Flame Ionization (FI) units, Combustible Gas Indicators (CGI's), cameras etc.

- Office Equipment (**§ 200.439**) - Computer equipment (laptops), fax machine, printers, desks, copiers/printers etc. for use by underground natural gas storage safety program **only.** This category would also include any computer software used for underground natural gas storage program. Note – if the programs shares equipment costs with other agency departments for things such as printers, the costs applied must be billed based on actual usage. Any estimated proration of charges would have to be charged as an indirect cost and placed in the indirect cost category. In addition, computer network hardware or software such as servers, data storage units and system software maintenance contracts are inherently indirect costs as they benefit entire agency "networks" and may not be recovered as a direct cost unless preapproved in advance.

- **Equipment and other approved capital expenditures used directly in the underground natural gas storage safety program.**

  Any equipment purchased with a value of over $5,000 shall be itemized and noted on grant application and also itemized on the submitted year-end reimbursement document. The year-end itemization shall include an inventory listing of all equipment purchased in current and prior periods and still in use. All equipment purchases must be accounted for and safeguarded against loss. PHMSA reserves the right to review and accept or reject any equipment purchases not deemed necessary or reasonable.

  - Motor Vehicles (**§ 200.439**) – actual cost of vehicles purchased. Tangible property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or $5,000. When replacing equipment purchased in whole or in part with Federal funds, the governmental unit may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

  - Any other capital equipment with a value over $5,000 will be included in this category and must have prior approval before purchase.

- **Travel expenses incurred specifically to carry out the award.**

  - Travel (**§ 200.474**) - Travel costs are for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the underground natural gas storage safety program. This would include automobile general maintenance of tires, oil changes and gasoline. This can include insurance costs and costs of automobiles used through state motor pools. Eligible costs also include commercial air fare travel. Charges for any foreign travel costs are allowable only when the travel has been approved by PHMSA (see 2 CFR Part 200).

- **Underground natural gas storage Safety Program Activity Costs**

  - Training and Education (**§ 200.472**) - This would include costs for registration and training materials acquired for underground natural gas storage safety personnel. This is for employee training and development.

  - Rental Cost of Building and Equipment (**§ 200.465**) – Rental costs of office space, equipment, maintenance, insurance, janitorial, utilities, operations and repairs. Rent recovered as a direct cost must be calculated on an "actual" basis, or pro-rated based on actual square footage occupied by the Underground natural gas storage Safety Program staff.

  - Communication (2 CFR 200 Basic Considerations) - Local and long-distance telephone calls, postage, computer transmittal services, internet charges, cell phone charges, emergency phone answering services, etc.

  - Publication and Printing (**§ 200.461**) - Costs of printing, distribution, promotion, mailing and general handling. Newsletters or other articles printed and sent to underground natural gas storage stakeholders

  - Memberships, Subscriptions and professional activities (**§ 200.454**) - Costs for business, technical and professional organization memberships. Costs for subscriptions to business, professional and technical periodicals.

  - Professional Service Costs (i.e. Studies and Research) (**§ 200.459**) – Any costs for professional and consulting services. Any contract for consulting services must be approved by PHMSA in advance or charges may not be allowed to be recovered in underground natural gas storage grant. The State Agency must send an email requesting preapproval to ContractApproval@napsr.net. The proposed contract should be attached to the email and the body of the email must provide an explanation of the reason for the contract and the deliverables expected from the vendor. PHMSA will send a reply email stating its decision of approval or disapproval. The email correspondence will be documented in FedSTAR. Copies of any approved final contract should be forwarded to PHMSA State Programs within 30 days of execution.

  - Maintenance, operations and repairs (**§ 200.452**) – costs of utilities, insurance, security, janitorial services, etc. If agency is unable to directly assign these costs to the underground natural gas storage safety program any cost must be submitted through an indirect method.

  - Other (Specify) – These costs should be detailed and described appropriately.

8.15.2 Indirect Costs

Indirect costs chargeable to the underground natural gas storage safety grant are limited to no more than 20% of direct cost of the program. Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically

benefited, without effort disproportionate to the results achieved. See Appendix O for further detailed guidance on indirect costs. The basis for indirect costs is generally the Total Direct Costs less Capital Costs and Office Rental Costs.

Since most State Agencies have several major functions which benefit from its indirect costs in varying degrees, the allocation of indirect costs may require the accumulation of such costs into separate cost groupings which are then allocated individually to benefit functions by means of a base which best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to individual awards and other activities included in that function by means of an indirect cost rate (IDR).

Indirect costs are normally charged to Federal awards by the use of an IDR. A separate IDR(s) is usually necessary for each department or agency of a governmental unit claiming indirect costs. All State Agencies should refer to 2 CFR 200 for indirect cost plan requirements and it is recommended that a program consult their state grant office, if applicable. In addition, guidelines and illustrations of indirect costs proposals are provided in a brochure published by the Department of Health and Human Services entitled "Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government" or ASMB C-10. (See Appendix N)

8.15.3 Standards for Documentation of Personnel Expenses

Charges to the underground natural gas storage safety grant for salaries and wages must be based on records that accurately reflect the work performed. These records must be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable and properly allocated. The records must also be incorporated into the official records of the state program and reasonably reflect the total activity for which the employee is compensated and not exceeding 100% of the compensated activities. (See 200.430 (i))

8.15.4 Unallowable Costs

Any cost specifically outlined in 2 CFR 200 as being unallowable is automatically excluded from the underground natural gas storage safety grant program. PHMSA State Programs also reserves the right to exclude certain costs deemed to be inappropriately applied to underground natural gas storage safety grants. Examples would include the following:

- Certain Damage Prevention Costs (Personnel and other) – These would be all costs for damage prevention activities other than underground natural gas storage safety. (i.e. damage prevention activities for telephone, water, electric, cable or other underground facilities shall not be included but can be applied for under State Damage Prevention (SDP) or One-Call Grant applications)

- Any promotional item such as shirts, hats, visors, water bottles, portfolios and any other item purchased to promote the underground natural gas storage safety program other than an item that may have an educational benefit from its use, are not an allowable cost.

- As described in 2 CFR 200.426, bad debts (debts which have been determined to be uncollectable), including losses (whether actual or estimated) arising from uncollectable accounts and other claims, are unallowable. Related collection costs, and related legal costs, arising from such debts after they have been determined to be uncollectable are also unallowable. See also §200.428 Collections of improper payments.

- Sponsorships or fees paid to outside organizations for the purpose of organizing meetings or to offset overall meeting costs are unallowable.

8.16 Underground Natural Gas Storage Safety Grant Program Review

The purpose of the grant program review is to ensure costs submitted to PHMSA for reimbursement are appropriate and conform with all policies as outlined in "Guidelines for States Participating in the Underground natural gas storage Safety Program" and 2 CFR 200 – "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards". This is to promote efficient and effective administration of the State Underground natural gas storage Safety Grant Program and to ensure consistent and fair treatment of all grant applicants to maximize the grant funds available to this program.
At intervals not exceeding three years, PHMSA OPS Office of State Programs may conduct an in depth review of costs applied to the Underground natural gas storage Safety Program Grant. The program review can consist of up to at least the previous three calendar years. This review shall consist of an analysis of the appropriateness of costs applied to the Underground natural gas storage Safety Program and its activities as submitted in the annual Progress Report. One-Call grant expenditures will also be reviewed in conjunction with base grant review.

All programs should be prepared for this grant review with adequate working papers and source documentation in order to substantiate the reimbursed amounts of program expenditures.

8.16.1 Pre-Review

Advance notice will be given in order for the Program Manager to prepare any financial information needed for the grant review. In addition, this should allow time for the necessary state personnel to be available to answer questions that might not be known by state underground natural gas storage safety staff during the on-site review.

8.16.2 Grant Review

A review will be conducted of the underground natural gas storage safety program costs which shall clearly relate to the program budget submitted with the grant application. Program costs shall also be consistent with 2 CFR 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Care shall be exercised in incurring costs to assure that all expenditures are authorized in accordance with these general standards, and meet the criteria of eligible costs. State Agencies should be capable of providing enough source documentation during the grant review to ensure PHMSA that amounts submitted for reimbursement are accurate, necessary and reasonable costs. This may include detailed invoice or billing reviews and enough documentation to insure items submitted for reimbursement were used by the underground natural gas storage safety program and that the items submitted were not used for the benefit any other State Agency program.

8.16.3 Post-Review

Following the review of the State Underground Natural Gas Storage Safety Program costs, PHMSA State Programs will prepare a report with recommendations, if necessary, outlining any areas of concern on cost items believed to be unacceptable, unallowable or any cause for concern as to the reasonableness in being applied to their Underground Natural Gas Storage Safety Grant Program. Notification of findings will be sent to the Program Manager from the PHMSA Director of State Programs.

8.16.4 Adjustments and Penalties

Should any costs submitted in the State Underground Natural Gas Storage Safety Grant be found to be unsubstantiated, unallowable, or unreasonable the State Agency will have those costs deducted from their current year grant reimbursement and be required to adjust their practices accordingly. The program Grant Review may consist of up to the previous three calendar years.

8.16.5 Appeal of Findings

Should the State Agency appeal any decision of PHMSA Director of State Programs to deduct costs previously submitted, it shall be made to the PHMSA Associate Administrator of Pipeline Safety. The Associate Administrator shall have the final word in any decision made on these matters.

8.17 Procurement Standards

Procurement standards must be followed by the State Agency to insure that supplies, equipment, and other services are obtained efficiently and economically. State Agencies shall use their own procurement procedures which reflect applicable State laws and regulations in the underground natural gas storage safety grant program, provided that procurements made with Federal grant funds conform to the applicable Federal laws and regulations. (49 CFR 1201.317)

8.18 Procurement Procedures

The State Agency shall establish procurement procedures that:

- avoid the purchase of unnecessary or duplicative items
- apply analyses to determine the most economical approach
- foster economy and efficiency
- encourage intergovernmental agreements for procurement, or use of common goods and services

8.19 Contracts Management

The State Agency shall maintain a contracts management system that ensures contractors comply with the terms, conditions, and specifications of their contracts or purchase orders.

8.20 Internal Controls

Each State Agency must establish and maintain effective internal control over the Federal award that provides reasonable assurance that the State Agency is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. (See 2 CFR 200.62 and 2 CFR 200.303)

8.21 Real Property

Real Property is defined in 2 CFR 200.85 as land, including land improvements, structures and appurtenances, but excludes moveable machinery and equipment. Real property purchases are not allowed in the underground natural gas storage safety grant.

8.22 Personal Property

The State Agency will retain property acquired with underground natural gas storage safety grant funds as long as there is a need for the property to accomplish the purpose of the grant program, and accurate property records shall be maintained. Personal property shall be available for use on other projects or programs if such other use will not interfere with the work on the underground natural gas storage safety program. When the State Agency no longer needs the property in any of its federally sponsored programs, the State Agency shall request disposition instructions from PHMSA, for all personal property with a current per unit fair market value in excess of $5,000. Personal property is defined in 2 CFR 200.78.

8.23 Code of Conduct

The State Agency shall maintain a written code, or standards of conduct, to govern the performance of its officers, employees, or agents in the award and administration of contracts supported by Federal grant funds. No State employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a conflict of interest, real or implied, would be involved.

8.24 Conflict of Interest and Mandatory Disclosures

Each State Agency must disclose in writing any potential conflict of interest to PHMSA Director of State Programs any instances of conflicts of interest or relevant violations of Federal criminal law. (2 CFR 200.112 and 200.113)

8.25 Audit Requirements (2 CFR 200 Subpart F)

Non-Federal entities that expend $750,000 or more in a year in Federal awards, must arrange for an independent audit to perform a single or program specific audit. All audits are to comply with Federal requirement stated in 2 CFR 200 Subpart F and conducted annually. (See Appendix G) Failure to comply with the single audit requirement may result in loss of federal financial assistance.

In the event there are program-specific audit findings uncovered during this process, a State Agency must contact (as soon as practical) the Director of State Programs and communicate a plan for resolution of these findings. PHMSA State Programs will monitor these findings and work with the affected State Agency until resolution is completed, if applicable.

Note: State governments, in their entirety, are typically considered an "entity" therefore the Underground natural gas storage Safety Program is generally considered a part of that entity. To ensure compliance with this audit requirement, each State Agency must make sure the Underground Natural Gas Storage Safety Grant (Base Grant listed under CFDA 20.700 or 20.721 for One-Call) is included in their state-wide single audit conducted annually in each respective state. Past audit information can be found on-line at the Federal Audit Clearinghouse. (http://harvester.census.gov/sac/)

8.26 PHMSA Office of Civil Rights Review – Title VI

The PHMSA Office of Civil Rights may conduct an on-site review of the State Agency if compliance with Title VI requirements cannot be determined from the assurances alone. It will also conduct regular on-site or desk audit compliance reviews as required by DOT directives. An on-site review will include personal interviews with persons in the State Agency's organization and in the community likely to have relevant information or views. The review will also include the collection of all statistical and documentary materials needed to

determine compliance. A desk audit will include a review of all material and information concerning the State Agency's performance, but will not include a visit to the State Agency. A copy of the written results of the review will be provided to the State Agency.

8.27 Grant-in-Aid Program Calendar of Events

Grant-in-Aid Program CALENDAR OF EVENTS			
Activity	**General Open Dates**	**General Closing Dates**	**Notification**
Grant Application and Certification/Agreement	August	September 30	E-mail sent to states alerting them of opening date for the Grant in FedSTAR
Previous Year End Payment Process	January	March – April	E-mail is sent to the states alerting them of the opening date for the Year End Payment Request in FedSTAR
Progress Report	January	Late February - March	E-mail is sent to states alerting them of opening date in FedSTAR
Allocation	Based on Progress Report Closing Date	Late March to April	Forwarded to states via email after analysis completed by PHMSA and confirmation of total state grant appropriation
Mid-Year Reimbursement Request (optional)	June	Late July to August	E-mail is sent to states alerting them of opening date in FedSTAR
Program Evaluation	Late February - March	Late December	Conducted during annual visit from State Liaison

8.28 Description of Activities

8.28.1 Underground Natural Gas Storage Safety Grant Application

The Base Grant is a grant to which states apply to be reimbursed up to 80% of their state underground natural gas storage safety costs. This grant requires a filing of the intension(s) under 60105 and/or 60106, along with a description of the program and its estimated budget..

8.28.2 Year End Payment Process

The Year End Payment process is a form which reflects the actual expenses incurred by the state's underground natural gas storage safety program(s). This process includes a reimbursement form which triggers a review and payment to the state.

8.28.3 Progress Report

This is a process in which a document is developed to reflect the performance of a state's safety program(s). This performance document has criteria which are used to generate a score. This score is used in the Allocation process.

8.28.4 Allocation

This process is conducted by the PHMSA Director of State Programs. The allocation is a document which displays the aggregated scores from the Progress Report and Program Evaluation, and funding information concerning the allocation of available grant funding.

8.28.5 Payment Agreement – (Notice of Grant Award)

The payment agreement (Notice of Grant Award) binds a grantee to the awarded (allocated) amount identified in the allocation document. The payment agreement (Notice of Grant Award) also contains a lobbying document, if the awarded amount exceeds $100,000. Furthermore the payment agreement (Notice of Grant Award) is signed by both state and federal authorities.

8.28.6 Mid-Year Reimbursement

The Mid-Year Reimbursement is an optional request for reimbursement funding.

8.28.7 Program Evaluation

This is an onsite process which is completed by a PHMSA State Liaison. The document reflects the performance and compliance to requirements spelled out in the Certification/Agreement process. It also covers the compliance with related activities of a state's underground natural gas storage safety program.

9 Federal-State Tracking and Reporting – "FedSTAR"

9.1 Purpose

Federal-State Tracking and Reporting ("FedSTAR") is an internet accessible web application that aids the States in meeting the requirements for participating in and in the preparation of the various forms necessary for participation in the Federal Grant program. FedSTAR collects information and constructs official program documents listed in the guidelines. It also standardizes these various submissions that are required in order to participate in the State Grant Program. FedSTAR is provided by PHMSA to modernize the submission and reporting process for States participating in the State Grant Program.

9.2 Location and Procedures

FedSTAR can be found in the PHMSA Portal at https://portal.phmsa.dot.gov. In order to access the FedSTAR program, the user must be issued a user name as well as a password. Each user has a tailored profile which allows each user access to only those modules required for their job. The user is unable to access any of the features of FedSTAR without obtaining this login information.

The user base for FedSTAR includes not only State employees (inspectors, supervisors, engineers) but also Federal staff in the PHMSA Regions and Headquarters. The process of administering the vast array of users encompasses both proactive and reactive methods. Requests for user creations/modifications are received via email from approved sources. Due to the number of users and offices that make up the user base, typically users are disabled upon rejected email notifications being received by the FedSTAR OM.

A user is created upon a User Access Request form (this form can be found on the NAPSR website or by contacting carrie.winslow@dot.gov) being received by the FedSTAR OM from a State Pipeline Safety PM. The requestor shall indicate in the request the level of access required for the individual.

9.2.1 Modification of user privileges and roles

The modification of user privileges and roles will be done in a similar manner to the initial request to create a user – the request must come from State Pipeline Safety PM, PHMSA Regional Director, State Program Director or any of the State Evaluators (PHP-50).

9.2.2 Disabling of a user

When the State PM, PHMSA Regional Director, State Program Director or any of the State Evaluators (PHP-50) becomes aware that one of the employees

under their organization is to be no longer employed by the State or PHMSA, the FedSTAR OM shall be notified of the date of termination or employment. The FedSTAR OM shall schedule a time to disable the user that coincides with their last day of State or Federal employment, or shall disable the user immediately upon receiving the notification the user has already been terminated. Additionally, if the FedSTAR OM becomes aware of a terminated employee (typically through email rejection notice), the FedSTAR OM will contact the State PM of the employee to determine employment status and then take appropriate action to disable the user.

9.2.3 Quarterly User Account Audit

A quarterly audit of active user accounts shall be performed. A report will be run through a database query to examine all active accounts and the date of last access. Any State user account found to be 365 days from the last login will be disabled.

9.3 Facilitating Various Program Documentation

FedSTAR reduces the time spent filling out the various State Grant Program submittals -- the Base Grant, Progress Report, One Call, One Call Progress Report, and Payment Requests. Each of the programs consists of several steps that the user must work through to successfully complete each document. The first step of each interface asks the user to verify their contact information. This ensures that the FedSTAR database stays up to date which allows PHMSA to better assist each individual State. Currently, even though a signed paper submission is required in addition to the electronic submission, eventually, FedSTAR will allow the States to electronically sign and submit the document online without having to print out the actual document and mailing it in.

9.3.1 Base Grant

This program consists of the steps required to produce a Base Grant application document. The State describes their pipeline safety program, provides an estimated budget and agrees to the general assurances.

9.3.2 Progress Report

This program provides data input screens to complete each of the required nine attachments as listed in Chapter 9.

9.4 Facilitating Grant Financials

9.4.1 Allocation

This document publishes the award information for each State Program. The PHMSA Director of State Programs and his staff review and score the Progress Report submitted by each State Program. The Program Evaluation score is combined with the Progress Report score to produce the overall score for the

State Program. This score is then calculated as a percent of funding, which then determines the State Program's grant funding award for that grant period.

9.4.2 Payment Agreement (Notice of Grant Award)

This is a document that must be submitted by each State Program which indicates they agree to the score they received through the Allocation process, and provides the State Program with a grant award amount. The Payment Agreement (Notice of Grant Award) is signed and scanned into FedSTAR by the State Pipeline Office and then PHMSA electronically signs the agreements and returns the fully executed agreement to the State Program via FedSTAR.

9.4.3 Certification Regarding Lobbying Document

This document applies to States that receive over $100,000.00 in funding from the Federal government. These States must print out the form and sign it, signifying that they agree to use the money for legitimate purposes. The Certification Regarding Lobbying forms are automatically generated with the Payment Agreement (Notice of Grant Award).

9.4.4 Payment Requests

There are two payment request programs – the Mid-Year Payment Request and the Year End Payment Request.

The Mid Year Payment Request is an optional program where the State Program can request reimbursement of their Allocated percentage of actual expenses at the 6-month mark.

The Year-end Payment Request is mandatory for all states who receive funding, and is based on actual expenses for the calendar year.

For the underground natural gas storage program, a series of steps collects the information and then produces the SF-270 for signature. The form is then scanned in and uploaded to the eInvoicing system (iSupplier). Additional fields are then completed and the request is submitted electronically via iSupplier for review and approval by PHMSA. (Note: a separate username/password is required for the iSupplier system).

9.5 Other FedSTAR Functions

9.5.1 Program Evaluations

The state liaisons use this feature of FedSTAR when they fill out their program evaluations for each state. Evaluations from previous years along with associated information will also be available in the SUDS section.

9.5.2 State Uploaded Document System or SUDS

For each state a set of 'completed documents' exists for each program and each year (back to approximately 2005). These completed documents are the .pdf documents for each of the programs completed in FedSTAR.

9.6 PHMSA State Program Management Functions

9.6.1 Allocation

This is a process in which PHMSA State Programs Division calculates the scores for each State Program. The result is the actual allocation or award for each State Program for the upcoming year. The Payment Agreement (Notice of Grant Award) outlines the terms and conditions and amount that PHMSA may reimburse the State Program.

9.6.2 Scoring

This is an algorithm used to calculate the State Program's performance score. It is used in the allocation process. A similar process is also used to generate the State's score for One Call.

9.6.3 Program Scheduling (also known as 'to-do list manager")

This determines when a program will open and close. These dates specify when the program will be placed and removed from FedSTAR.

Appendix Summary

Appendix A: 49 USC Chapter 601 and 49 USC Chapter 61 (One-Call)

Appendix B: Interstate Agreement Guidance Policy

Appendix C: Training Requirements – Mandatory Training for Underground Natural Gas Storage

Appendix D: DOT-NTSB Memorandum of Understanding

Appendix E: Federal/State Cooperation in Case of Accident

Appendix F: State Program Certification/Agreement Status

Appendix G: 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Appendix H: State Inspector Mentoring Program

Appendix I: Program Evaluation Form

Appendix J: - UNGS Inspection Forms

Appendix K: Reserved

Appendix L: UNGS Progress Report

Appendix M: Grant Review Checklist

Appendix N: ASMB C-10 – Cost Principles and Procedures for Developing Cost Allocation Plans and Indirect Cost Rates with the Federal Government

Appendix O: PHMSA State Pipeline Safety Grants Guidance for Indirect Cost Recovery

Appendix P: Procedure to Monitor, Evaluate and Reject State Certification

Appendix Q: Pipeline Safety Grant Progress Report Scoring

Appendix R: Reserved

Appendix S: Examples of State Pipeline Safety Program Plan, Procedures and Risk Based Inspection Prioritization Model