



UST and SAF Bulletin
Arizona Department of Environmental Quality

Subject: Underground Storage Tank Financial Responsibility

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TYPE

Underground Storage Tank (UST) Financial Responsibility

BACKGROUND

A.R.S. § 49-1006
A.A.C. R18-12-1006
40 CFR 280.90 through 280.116

Federal and state laws mandate owners and operators to secure and maintain financial responsibility. Having the fiscal means to handle any corrective action (remediation) costs and third party liability claims (property and bodily injury) associated with releases from their UST system(s) is a state requirement (A.R.S. 49-1006, A.A.C. R18-12-300 through R18-12-325) and a federal requirement (40 CFR 280.90-280.116).

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CONTACT

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UNDERGROUND STORAGE TANK FINANCIAL RESPONSIBILITY SUMMARY

Financial responsibility is a state and federal requirement for underground storage tank (UST) owners and operators to have the fiscal means to handle any corrective action (remediation) costs and third-party liability claims (property and bodily injury) associated with releases from UST systems. Having a means of financial responsibility not only puts the owner or operator in compliance with state and federal regulations, but it also provides their business with protection in the event a release occurs from their UST system.

There are two separate required amounts: one is the “per occurrence” coverage and the other is the “aggregate” coverage. All petroleum-marketing firms (e.g. gas stations) must have \$1 million available to clean up and pay for any third-party damages resulting from each release. This is the “per occurrence” amount. For non-petroleum marketing firms, the required “per occurrence” amount is based on an average monthly throughput. An average monthly throughput of 10,000 gallons or less requires coverage of \$500,000; more than 10,000 gallons requires \$1 million of coverage.

The second amount, the annual “aggregate,” is a limit or cap on the amount, which must be covered per year. The aggregate is based on the number of UST systems owned. The annual aggregate coverage required is \$1 million for owners of one to 100 USTs. Owners of more than 100 USTs are required to have \$2 million of aggregate coverage.

Arizona law also addresses the failure to comply with financial responsibility requirements. If a leak occurs or is discovered after July 1, 1996, and there is no evidence of financial responsibility, eligibility for State Assurance Fund (SAF) assistance could be disallowed. Additionally, without evidence of financial responsibility, the owner/operator is subject to enforcement action and fines. The fines can range up to a maximum of \$10,000 per day.

The SAF can no longer be used to satisfy any portion of the financial responsibility requirements after June 30, 2006, due to legislation passed in 2004. Other appropriate financial mechanisms include: commercial insurance, self-insurance, guarantee, letter of credit, surety bond, trusts or a certificate of deposit. Local government entities may also use a government fund, a bond rating test, government guarantee or a government financial test.

The most common financial mechanism is UST pollution liability insurance that can be obtained through your insurance agent. Be advised that property insurance policies typically exclude underground storage tanks. For more detailed information, please call your insurance agent or contact ADEQ’s Financial Responsibility Coordinator at (602) 771-2214. All financial responsibility documentation must be up to date and on file with ADEQ. For a list of known insurance providers maintained by the US Environmental Protection Agency, please visit the following website: <http://www.epa.gov/oust/pubs/inlist.htm>