



HB 2296 Underground Storage Tank Program

The Arizona State Legislature (Legislature) established the State Assurance Fund (SAF) in 1990, with the purpose of assisting responsible and compliant owners and operators of underground storage tanks (UST) with environmental cleanup costs. The SAF was funded by a one (1) cent per gallon throughput tax on fuel placed in USTs. The SAF funded claims associated with the cleanup of fuel released from orphan tanks for State Lead and Volunteer Remediators, and tanks from UST owners and operators (O/O) in compliance with all applicable rules and statutes. The SAF established both a deductible (co-pay) and a cap on each claim.

In 2004, the Legislature determined that the SAF and tax should be eliminated. The Legislature based its decision on several assumptions which, in hindsight, have proved incorrect: (1) there would always be readily available commercial insurance that would cover all releases, (2) responsible parties would have the ability to use risk based approaches using alternate cleanup standards, and (3) there would be sufficient monies in reserve to cleanup orphan sites from the Regulated Substance Account. In fact, for a variety of reasons due largely to circumstances beyond the control of owners and operators, there remain numerous sites where little or no cleanup has been conducted, leaving the State unable to meet its obligation to protect human health and the environment.

The Legislature should extend the current one cent per gallon UST tax indefinitely with periodic sunset review.

It is estimated that over \$546,000,000 has been collected through FY 2011 with only an estimated \$306,000,000 of that total paid out to clean up releases (much has been “swept” away by the legislature for completely unrelated purposes).

The Legislature needs to extend and re-open the SAF Program to new claims that meet the following criteria:

- Only responsible O/O in material compliance with UST regulations and the law may apply for SAF coverage.
- In order to submit a claim, applicants must have a financial responsibility mechanism (e.g., commercial insurance as prescribed by EPA or other means meeting Federal requirements) in place at the time a release is discovered, or when required by law.
- As under current law, applicants must first pay a 10% deductible, and a reasonable cap for total costs will also be in place.

The Legislature needs to carefully review and evaluate existing ADEQ regulation of the UST Industry.

We need to make certain that ADEQ remains focused on regulating Leaking Underground Storage Tanks (LUST) activities for compliance, rather than overly managing the process.

If these urgently needed changes are made in 2013:

- It will keep ADEQ adequately financed and in the position to protect human health and the environment of Arizona.
- There will be adequate funding for the State Lead Program to clean up releases from orphan tanks, now, and in the future.
- O/Os who are in good legal standing and have acted in good faith to address UST releases can be reimbursed expenses, consistent with original statutory intent, rather than suffering devastating financial consequences from having to fund the UST program with substantial new fees and receiving no reimbursement.
- The availability and competitiveness of the retail fuel business outside of Phoenix and Tucson will be maintained.
- Arizona will be able to maintain community development, revenues generated from this the tax base, and employment relative to the retail fuel industry.

For more information, please contact Tom Dorn at 602-290-2727 or tom@dornpolicygroup.com

P.O. Box 44536, Phoenix, AZ 85064-4536

tel 602-330-6762 • fax 602-391-2817 • amanda@APMA4u.org • www.APMA4u.org