

Underground Storage Tank Legislation SENATE BILL 1306

On May 26, 2004, the Governor signed into law Senate Bill (SB) 1306, a significant piece of underground storage tank (UST) legislation. SB1306 is effective on August 25, 2004, and brings substantive changes to the Arizona Department of Environmental Quality (ADEQ) and our customers.

This SB 1306 Fact Sheet is designed to provide basic information to our UST program customers wanting to become more familiar with the new laws.

IMMEDIATE REQUIREMENTS

SB 1306 has some requirements that go into effect immediately on August 25, 2004. The following is a brief summary of provisions that are effective on August 25, 2004:

1. The State Assurance Fund (SAF) covers up to the first \$500,000 of eligible corrective action costs for all UST owners and operators. This provision is retroactive to December 31, 2002, but claims denied after that date must be "resubmitted" to ADEQ before January 1, 2005. This provision does not negate the federal and state requirements for owners and operators to have current and adequate financial responsibility mechanisms to cover the costs of corrective actions and third-party liability claims for all of their USTs.
2. An additional coverage of \$500,000 for corrective action costs is available but only after the owner or operator has utilized their insurance or alternative financial assurance mechanism(s).
3. The SAF can pay for soil cleanups to residential standards, even though the site may be used for non-residential purposes.
4. To expedite remediation of contamination, the SAF will pay for contaminant source control and removal.

5. The SAF pays only for a report required in rule and only if it is approved by ADEQ.
6. Cleanup volunteers are liable for a ten percent SAF co-payment for corrective actions, unless the co-pay amount of the reimbursement or direct pay application exceeds the assessed valuation of the real property, or the volunteer opts to have the State Lead program conduct the cleanup.
7. Certification of payment of the SAF co-pay amount is required of all owners, operators and cleanup volunteers.
8. Cleanup volunteers now have informal appeal rights if ADEQ does not make a timely written interim determination on a SAF application.

SIGNIFICANT REFORMS

Additionally, SB 1306 includes some significant reform to the SAF that will be phased in over the next six years. Between now and June 30, 2010, SB 1306 provides for phasing out eligibility to the SAF and eventual termination of the SAF entirely. The following is a brief summary of provisions of SB 1306 and their effective dates:

July 1, 2005

- ▶ A new SAF cost schedule will become effective, and all previous cost schedules will be repealed.
- ▶ Cleanup volunteers will be required to be pre-approved for SAF claims beyond \$100,000 at a single facility.

December 31, 2005

- ▶ ADEQ will not accept an SAF application for less than \$5,000, unless the application is the final reimbursement for the particular release, the last direct pay on a preapproval, or the last application before June 30, 2010.

June 30, 2006

- ▶ **Only regulated substance releases from USTs that are reported on or before this date are eligible for SAF coverage.** For all releases reported after this date, owners and operators will be responsible for all costs of corrective actions.
- ▶ Prior to this date, ADEQ will have consulted with local and county governments in rural areas to locate and permanently close abandoned USTs, using ADEQ's existing authorities (e.g. UST State Lead; County and Municipal Tank Closure and Corrective Action Program).

June 30, 2009

- ▶ All SAF preapproval applications must be submitted to ADEQ no later than this date.

June 30, 2010

- ▶ All other SAF applications (reimbursement and direct payment) must be submitted to ADEQ no later than this date. No SAF application will be accepted by ADEQ after this date.

FOR MORE INFORMATION ABOUT SB 1306 CONTACT:

Al Johnson
ADEQ Tank Programs Division
E-mail: johnson.allen@azdeq.gov
(602) 771-4268
toll free number: (800) 234-5677

Additionally, if you wish to view a copy of the new legislation, SB 1306 may be accessed online at:

www.azleg.state.az.us/DocumentsForBill.asp?Bill_Number=sb1306

(Note: the "House Engrossed Version", either in HTML or PDF format, is the correct version).