

State Storage Tank Funds/Association of State and Territorial Solid Waste Management Officials: 2020 Survey Results Released



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03/29/2021

The Association of State and Territorial Solid Waste Management Officials (“ASTSWMO”) issued a document titled:

2020 Annual State Fund Survey (“Survey”)

The *Survey* was undertaken by the organization’s State Fund – Financial Responsibility Task Force and provides data regarding the various state trust funds that are in place for purposes of addressing storage tank petroleum releases.

Hundreds of thousands of underground storage tanks (“USTs”) are utilized at facilities nationwide to store petroleum and chemical products. These businesses and governmental agencies include convenience stores, bus terminals, fire and police stations, airports, utilities, construction companies and car dealerships. In the 1980s concerns about leaks and other releases from USTs prompted the establishment of a regulatory program for such equipment.

Subtitle I was added to the Resource Conservation and Recovery Act (“RCRA”) in 1984 to require that the United States Environmental Protection Agency develop UST design and installation, leak prevention, detection, and corrective action provisions. 1986 amendments added a requirement for UST owners and operators to meet minimum financial responsibility requirements to address potential third party claims and ensure funds were available to remediate releases.

Concerns regarding the ability of some UST owners and operators to comply with the federal financial responsibility requirements prompted many states (including Arkansas) to create petroleum UST trust funds. The principal purpose of the state trust funds has been to enable UST owners and operators to partially or completely comply with the RCRA financial responsibility requirements. An arguably related benefit has been to alleviate financial institutions or other transactional parties’ concerns about properties that utilize USTs. The trust funds can in some cases be considered liability limiting mechanisms.

The ASTSWMO *Survey* provides both national aggregate information/data and state by state information/data. The *Survey*, therefore, provides various information about the Arkansas Storage Tank Trust Fund.

Information discussed in the aggregate portion of the *Survey* includes:

- Approximate annual revenue (billions)

- Approximate current balance (billions)
- Outstanding claims (millions)
- No. of releases with claims
- No. of sites with 3rd party claims
- No. of claims received
- Total No. of sites
- Approximate total amount paid (billions)
- Average amount paid/release
- States in which outstanding claims exceed balance
- No. of states which are serving as financial responsibility mechanisms
- No. of sites >\$1 million

State by state data includes:

- Agency/Department with primary responsibility
- State uses outside contractors to administer fund
- Type of tanks covered
- No. of active facilities covered
- Fund coverage
- Fund deductible
- Factors affecting limits of coverage
- Time limit for submitting costs to receive payment
- Fund serving as financial responsibility mechanism for active tanks
- Use of state fund as financial responsibility voluntary
- Fund sunset date

Note that most trust funds only cover USTs. Arkansas is one of the few states whose trust fund potentially covers aboveground storage tanks (if the tanks are registered and fees paid).

A link to the *Survey* can be found [here](#).