



State Assurance is not the same as Insurance!

February, 2012
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Some Startling Differences between State Tank Funds and Private Tank Insurance

By: Angela Dybdahl

Insurance agents need to know the differences between private insurance and the state tank funds. Depending on the states clients will be well served by purchasing Insurance. For 20 years, Federal law requires that owners and operators of certain underground tanks have the financial means to pay for the costs of corrective action and third party damages caused by a release from their underground tank. These costs could include cleaning up leaked petroleum, correcting environmental damage, supplying drinking water, and compensating injured parties for personal injury or property damage. The common method under the federal regulations for showing evidence of financial responsibility is inclusion in a state "assurance" fund.

Within these state "assurance" funds the State assures that monies will be made available, *in the State's discretion*, to remediate releases from underground storage tanks to protect the public health and the environment should action be taken.

However, **State "Assurance" Is not the same as Insurance.**

Take the New York State Oil Spill Fund for example; In the event of a spill or release "The tank owner is still responsible for the cost of cleanup. If the Oil Spill Fund pays for the cost of your tank cleanup, the Fund Administrator will make every attempt to recoup the amount of money spent from you, plus interest and penalties where warranted, including putting a lien on your property... The Fund is **not** liable for claims for third party bodily injury." <http://www.dec.ny.gov/chemical/8638.html>

When you are a part of a state assurance program another common misconception is that pay out for claims will result in the same timely manner as private Insurance. Instead some state assurance programs are insolvent to pay claims.

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As of 2011, Michigan currently has no reimbursement fund and Iowa though their state tank fund is solvent there are still 840 unpaid claims in the state. (As reported by the ASTSWMO

http://www.astswmo.org/Files/Policies_and_Publications/Tanks/2011_State_Funds_Survey/Table_4_2011.pdf)

As a tank owner you run the risk of waiting years for the state to reimburse clean-up costs.

What Private Insurance covers over State Tank Funds

Many state sponsored UST funds do not provide any coverage for defense costs, instead they only insure clean up expenses. Many to almost all also do not provide Bodily Injury and Property Damage cleanup. Take for example oil giant Exxon Mobil Corp. A Jury in Maryland ordered oil giant Exxon Mobil Corp. to pay more than \$495 Million in damages for a leak at a retail gas station in 2006, as reported by the Baltimore Sun.

The Sun, citing documents released by the Baltimore Circuit Court, said the jury had given the awards to 160 families and businesses to compensate for lost property, emotional distress and medical monitoring related to damage from the underground leak of 26,000 gallons of gasoline.

The leak occurred at the gas retail station over 37 days in January and February in 2006 and reached the groundwater in the community that relies on private wells for drinking water.

Exxon had already spent more than \$46 million on the spills cleanup and been fined \$4 million by the state, the paper reported.

(Read the full article here:

<http://www.businessinsurance.com/apps/pbcs.dll/article?AID=/20110630/NEWS01/110639996/1232>)

One of the advantages of real underground storage tank insurance is that they provide coverage for the legal expenses of the tank owner. Along with Bodily Injury and Property Damage, none of which are covered under State Tank Funds.

Although Exxon Mobil was the target for punitive damages (which are not normally covered in a UST policy) **the station owner would certainly be along for a long and potentially devastating legal ride.**



For more information or to obtain a Quote please Call
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MARKET WATCH

- Look for increased cost and restrictions on storage tanks and State Funds
- Be on the lookout for new business production opportunities in changes in Proof of Financial Responsibility (FR) Compliance options for regulated companies

BE ON THE LOOK OUT FOR NEW BUSINESS OPPORTUNITIES!

Be on the lookout for changes in Proof of Financial Responsibility and Compliance options for Tank owners. With insolvent state assurance funds, increasing clean-up claims and an economic recession, your customers may be required to buy Tank insurance through a private market for the first time!



ARMR'S Top Private Tank Markets

Berkley Specialty Underwriting Managers, LLC *TankAdvantage Pollution Liability Insurance*

TankAdvantage offers the following coverage(s): The best option for insuring the environmental risks at a location

- Cleanup costs for covered storage tank systems and covered locations.
- Third Party Bodily Injury and Property Damage for covered storage tank systems and covered locations.
- Defense outside of the policy limits.

TankAdvantage also provides the following optional environmental coverage(s):

- Amended Spills and overfills coverage
- Business Interruption
- Dedicated limits per location
- Excess of state storage tank funds
- Natural Resource Damages
- Off-site operations pollution liability coverage
- Third party contingent liability waste transportation
- Third party contingent liability for non-owned locations

Eligible facilities include, but not limited to:

- Gas station operations
- Dealer and Repair facilities
- Golf Courses
- Commercial Buildings
- Healthcare
- Shopping Centers
- Food Distribution
- Hospitality

American Safety Insurance: *A Value leader in for Storage Tank Pollution Liability Insurance*

Minimum Premium \$500 per policy

Retentions Flexible deductible plans starting at \$5,000

Limits \$1,000,000/ \$1,000,000 to \$1,000,000/ \$5,000,000 Additional capacity may be available.

Preferred Business Classes

- Convenience Stores/ Service Stations
- Trucking and Distribution Centers
- Petroleum Marketers
- Bulk Facilities
- Schools, Colleges, Universities
- Auto Dealerships
- Municipalities
- Airports
- Hospitals
- Manufacturing Plants

Prohibited Classes

- Non-Petroleum containing storage tanks
- UST's installed prior to 1982

Product Features

- Coverage offered on IX Indemnity, Company, rated A by A.M. Best.
- Policy/ Certificate satisfies federal requirements for Financial responsibility (where applicable) rules.
- Industry leading professional claims handling.
- Storage tank coverage pioneer underwriting talent.
- Great customer service, including, same day turnaround

FOR MORE INFORMATION

Please contact American Risk Management Resources if you are interested in obtaining a Tank Quote

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FOR MORE INFORMATION ON THE BROAD SPECTRUM OF CUTOMIZED INSURANCE PRODUCTS AND THE SERVICES OFFERED BY ARMR.NETWORK

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- Owners of property
- Environmental Contractors
- General Contractors
- Hazardous waste sites
- Environmental financial responsibility
- Professional services providers
- Lenders

Most of our customized insurance products are available in all 50 states and many can be adapted to address contaminated drywall loss exposures for the various stakeholders.

