**Title 33**

**ENVIRONMENTAL QUALITY**

**Part XI. Underground Storage Tanks**

**Chapter 3. Registration Requirements, Standards, and Fee Schedule**

**§301. Registration Requirements**

 A. — C.7. …

 ~~8. A current copy of the registration certificate shall be kept on-site or at the nearest staffed facility.~~

 ~~9~~8. No owner or operator shall allow a regulated substance to be placed into a UST system that has not been registered with the department.

 ~~10~~9. No person shall place a regulated substance into a UST system that has not been registered with the department.

 ~~11. No owner or operator shall allow a regulated substance to be placed into a UST system that does not have a current registration certificate.~~

 ~~12. No person shall place a regulated substance into a UST system that does not have a current registration certificate.~~

 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

 HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of Environmental Assessment, LR 31:1066 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), repromulgated LR 32:393 (March 2006), amended LR 32:1852 (October 2006), LR 33:2171 (October 2007), LR 34:2116 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2760 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2143 (November 2017), LR 44:1593 (September 2018), amended by the Office of the Secretary, Legal Affairs Division, LR 51:0000

**Chapter 4. Delivery Prohibition**

**§403. Delivery Prohibition of Regulated Substances to Underground Storage Tank Systems**

 A. — A.4. …

 5. allowing a regulated substance to be placed into an unregistered UST in accordance with LAC 33:XI.301.C.~~9~~8 or ~~10~~9;

 ~~6. allowing a regulated substance to be placed into a UST that does not have a current registration certificate in accordance with LAC 33:XI.301.C.11 or 12;~~

 ~~7~~6. upon evidence of a below-surface release from an UST system, failure to conduct a system test within the time frame established in LAC 33:XI.711.A.1, failure to take initial response actions required by LAC 33:XI.715.B.2 and 3, or failure to conduct the initial abatement measures required by LAC 33:XI.715.C.1.a-d and g; or

 ~~8~~7. whenever failed tank or failed piping has not been repaired, replaced, upgraded, or permanently closed, or temporarily closed in accordance with LAC 33:XI.711.A.1.

 B. — E. …

 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

 HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1867 (September 2007), amended LR 34:2119 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1598 (September 2018), amended by the Office of the Secretary, Legal Affairs Division, LR 51:0000

**Chapter 5.** **General Operating Requirements**

**§509. Reporting and Recordkeeping**

 A. — B.5.a. …

 b. a copy of the current registration certificate (LAC 33:XI.301.C.7 and ~~8~~1133.B.5);

 B.6. — C. …

 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

 HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of Environmental Assessment, LR 31:1070 (May 2005), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 32:393 (March 2006), amended LR 34:2119 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1600 (September 2018), amended by the Office of the Secretary, Legal Affairs Division, LR 51:0000

**Chapter 11. Financial Responsibility**

**§1121. Use of the Motor Fuels Underground Storage Tank Trust Fund**

 The administrative authority was authorized by R.S. 30:2194-2195.10 to receive and administer the motor fuels underground storage tank trust fund (MFUSTTF) to provide financial responsibility for owners and/or operators of underground motor fuel storage tanks. Under the conditions described in this Section, an owner and/or operator who is eligible for participation in the MFUSTTF may use this mechanism to fulfill the financial responsibility requirements for eligible USTs. To use the MFUSTTF as a mechanism for meeting the requirements of LAC 33:XI.1107, the owner and/or operator shall be an eligible participant as defined in Subsection A of this Section.

 A. Definitions. The following terms shall have the meanings ascribed to them as used in this Section.

\* \* \*

 *Eligible Participant*—any owner of an underground storage tank ~~operating or newly-installed underground storage tank~~ who has registered a newly installed or operating or temporarily closed ~~the~~ tank with the department prior to the date of a release, has paid the annual tank registration fees along with any late payment fees, and has not been excluded from coverage as~~has met the financial responsibility requirements imposed by Subsection B of this Section, and, if applicable, has met the noncompliance financial responsibility amounts~~ provided in R.S. 30:2195.10.

\* \* \*

 *Third-Party Claim*—any civil action brought or asserted by any person against the secretary of the department and any owner of any underground storage tank for damages to person or property when damages are the direct result of the contamination of surface water, groundwater ~~and/~~or ~~subsurface~~ soils by motor fuels released during operation of storage tanks as provided in R.S. 30:2194-2195.11.~~that were being operated in substantial compliance as provided for in this Section.~~ The term *damages to person* shall be limited to damages arising directly out of the ingestion or inhalation of petroleum constituents from water well contamination or inhalation of petroleum constituents seeping into homes or buildings, and the term *damages to property* shall be limited to the unreimbursed costs of a response action and the amount by which property is proven to be permanently devalued as a result of the release.

 B. Financial Responsibility Requirements for MFUSTTF Participants

 1. Unless revised by the administrative authority in accordance with R.S. 30:2195.9(A)(5) and 10(D), MFUSTTF participants taking response actions shall pay the amounts required by R.S. 30:2195.9(A)(1)-(~~4~~5) and 10(B).

 2. The advisory board shall review the financial responsibility requirements on an annual basis and may recommend adjustments to the requirements to the secretary. The secretary shall determine and set the financial responsibility requirements annually [as provided in R.S. 30:2195.9(A)(5)~~]~~ and 10(D).

 B.3. — C.1.c.i. …

 ii. The monies expended from the MFUSTTF for any of the above approved costs shall be spent only up to such sum as that which is necessary to satisfy petroleum or motor fuel UST financial responsibility requirements specified in LAC 33:XI.1107 or $~~1,500,000~~2,000,000 per occurrence, whichever is greater. This amount shall include any third-party claim arising from the release of motor fuels from a motor fuel underground storage tank. However, if the secretary determines that further action is needed to address a condition that constitutes a danger or potential danger to the public health or the environment, monies from the MFUSTTF may be expended above the aggregate financial responsibility requirements of LAC 33:XI.1107.

 2. — 3. …

 4. The MFUSTTF may be used for reimbursement of any costs associated with the review of applications for reimbursement from the MFUSTTF, legal fees associated with the collection of costs from parties who are not ~~in substantial compliance~~eligible participants, audits of the MFUSTTF, and accounting and reporting regarding the uses of the MFUSTTF.

 C.5. — D.1. …

 a. ~~Payments are made in reasonable amounts to eligible participants or for reimbursement of payment to approved response action contractors for response actions when authorized by the administrative authority only after the owner or operator of the underground motor fuel storage tank or those acting for the owner or operator have paid the amount required by LAC 33:XI.1121.B.~~Notwithstanding any provision of R.S.2194-2195.11 to the contrary, any remediation work contracted for on or after August 1, 1995, shall be paid by the department to the response action contractor who performed the department-approved assessment or remediation work upon the presentation of proper invoices for the response actions taken when authorized by the secretary or his designee.

 b. …

 2. Payments are made to third parties who bring suit against the administrative authority in his or her official capacity as representative of the MFUSTTF and the owner or operator of an underground motor fuel storage tank who is an eligible participant as defined in Subsection A of this Section and such third party obtains a final judgment in that action enforceable in Louisiana. The owner or operator stated above shall pay the amount required by Subsection B of this Section toward the satisfaction of said judgment~~,~~ and ~~after that payment has been made,~~ the MFUSTTF will pay the remainder of said judgment. The attorney general of the state of Louisiana is responsible for appearing in said suit for and on behalf of the administrative authority as representative of the MFUSTTF. The administrative authority as representative of the MFUSTTF is a necessary party in any suit brought by any third party that would allow that third party to collect from the MFUSTTF, and the administrative authority shall be made a party to the initial proceedings. Payment shall be made to the third-party claimant only if the judgment is against an owner or operator who was an eligible participant on the date that the incident that gave rise to the claim occurred. The costs to the attorney general of defending these suits, or to those assistants that the administrative authority employs or the attorney general appoints to assist, shall be recovered from the MFUSTTF. If the MFUSTTF is insufficient to make payments when the claims are filed, such claims shall be paid in the order of filing when monies are paid into the MFUSTTF. Neither the amount of money in the MFUSTTF, the method of collecting it, nor any of the particulars involved in setting up the MFUSTTF shall be admissible as evidence in any trial in which suit is brought when the judgment rendered could affect the MFUSTTF.

 3. …

 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 2195-2195.10.

 HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), LR 27:521 (April 2001), amended by the Office of Environmental Assessment, LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:864 (May 2008), LR 35:1881 (September 2009), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1625 (September 2018), amended by the Office of the Secretary, Legal Affairs Division, LR 51:0000