

Program Update from U.S EPA Office of Underground Storage Tanks



State Fund Administrators Meeting
Charleston, South Carolina
June 2008

Overview

- Program Highlights
 - 2007 Accomplishments
 - Energy Policy Act Guidelines
 - Regulation Update
- Financial Responsibility
 - Fund Soundness Guidance
 - Highlights of Revision
 - Status and Next Steps
 - Upcoming Study of Insurance

2007 Accomplishments

- Energy Policy Act Activities (EPAAct)
 - Increased inspection efforts and met two-year inspection mandate
 - Issued several EPAAct grant guidelines
- Cleanups
 - Exceeded annual goal for LUST cleanups
 - Began Phase 2 of Backlog Characterization Study
- Coordination and Outreach
 - Completed Report to Congress on UST program in Indian Country
 - Developed new areas on EPA/OUST Website

Energy Policy Act Guidelines

- Delivery Prohibition (08/07/06)
 - Describes procedures states must use for prohibiting delivery to ineligible tanks
- Secondary Containment (11/15/06)
 - Defines and outlines requirements for states
- Public Record (01/22/07)
 - Discusses development, content, quality and availability of UST public records
- Financial Responsibility (FR) and Installer Certification (01/22/07)
 - Describes FR definitions, requirements, criteria and options
- Inspection (04/24/07)
 - Identifies applicable tanks and describes requirements associated with the on-site inspection
- Operator Training (08/08/07)
 - Establishes classes of operators and when they must be trained



Regulation Update

- EPA is initiating UST rulemaking process
- Rule will focus on:
 - Fully implementing EPA Act (filling in gaps)
 - Updating existing regulations as appropriate
- Initiated stakeholder feedback process with:
 - states, tribes, tank owners, equipment industry, small businesses, and environmental groups.
- Timing
 - Tiering in June (formal Agency kick-off)
 - Initial stakeholder feedback – summer and fall
 - Final rule - ??? (several years at least)

Fund Soundness Guidance

- Highlights of Revisions
 - Greater Emphasis on Oversight
 - Annual Review
 - Focus on Federally-regulated, Fund-eligible Universe
 - Overall Review Process
- Status and Next Steps

Greater Emphasis on Oversight

- Reinvigorate examination of FR responsibilities
 - As a compliance matter for owners and operators
 - As a soundness issue for state funds to address
 - Environmental performance
 - Financial solvency and
 - Management
- Purpose of Guidance
 - To provide US EPA Regions with criteria and procedures for monitoring and strengthening state funds
- Applicability
 - All state funds operating as financial responsibility mechanisms for federally-regulated underground storage tanks
 - Full or partial coverage
 - Funds within states with or without EPA program approval (SPA and non-SPA)

Annual Review

- Tiered review
 - To balance oversight with available time, data and resources
 - To examine less healthy funds in greater detail
- Tier 1 Review
 - Use of a small set of indicators to distinguish healthy funds from funds needing additional attention
 - Guidance describes four Tier 1 indicators:
 - Effect on Cleanup Progress
 - Open, Inactive Sites
 - Comparison of Income vs. Liabilities
 - Focus on Federally-Regulated USTs
 - Consideration of Changes
 - Review would examine important actual and pending changes to the fund

Annual Review (continued)

- Tier 2 Review

- Based on concerns raised by the Tier 1 review
- Tier 2 indicators would delve deeper

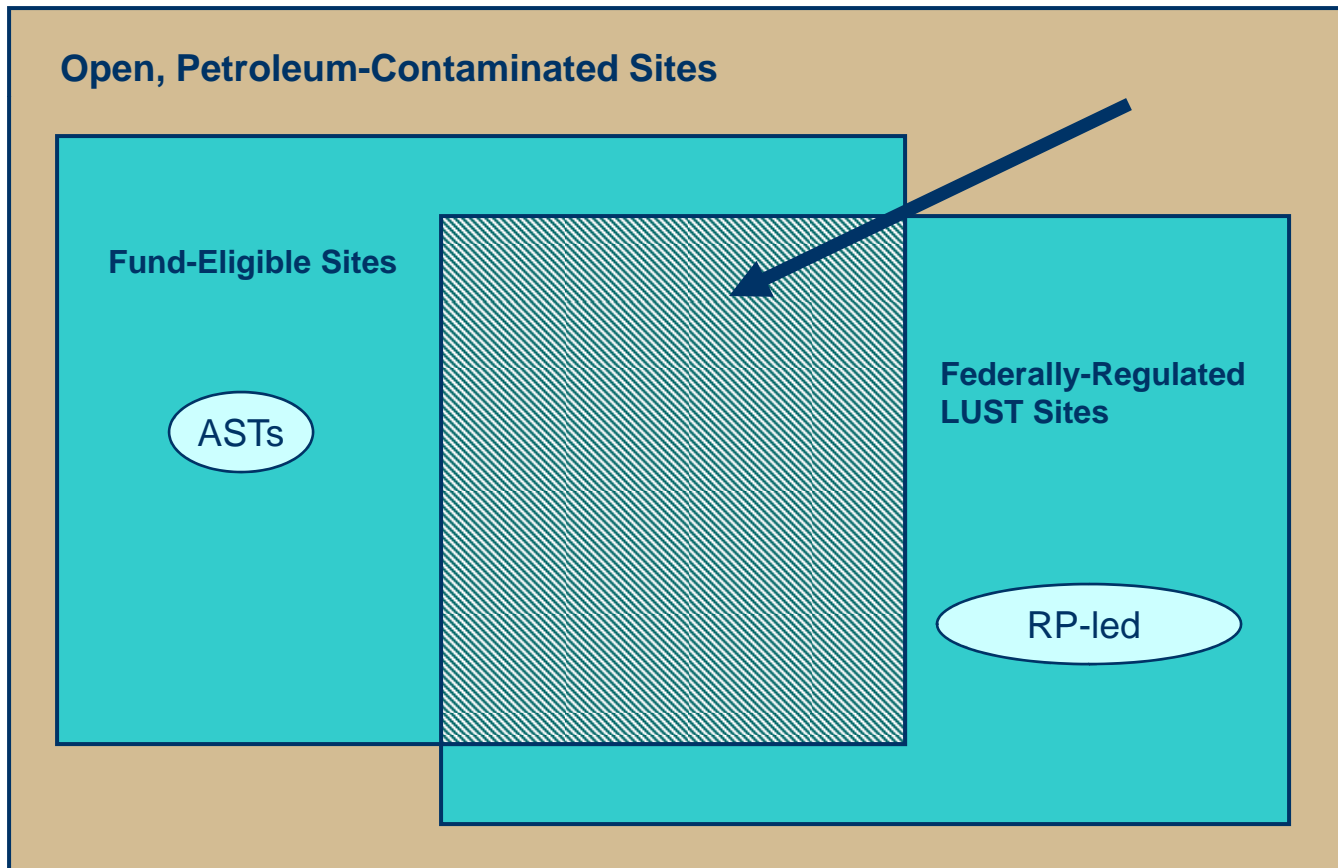
- Data Needs

- Regions will need to collect data from states
- Data should support oversight and reviews of state funds
- Data collection should minimize burden

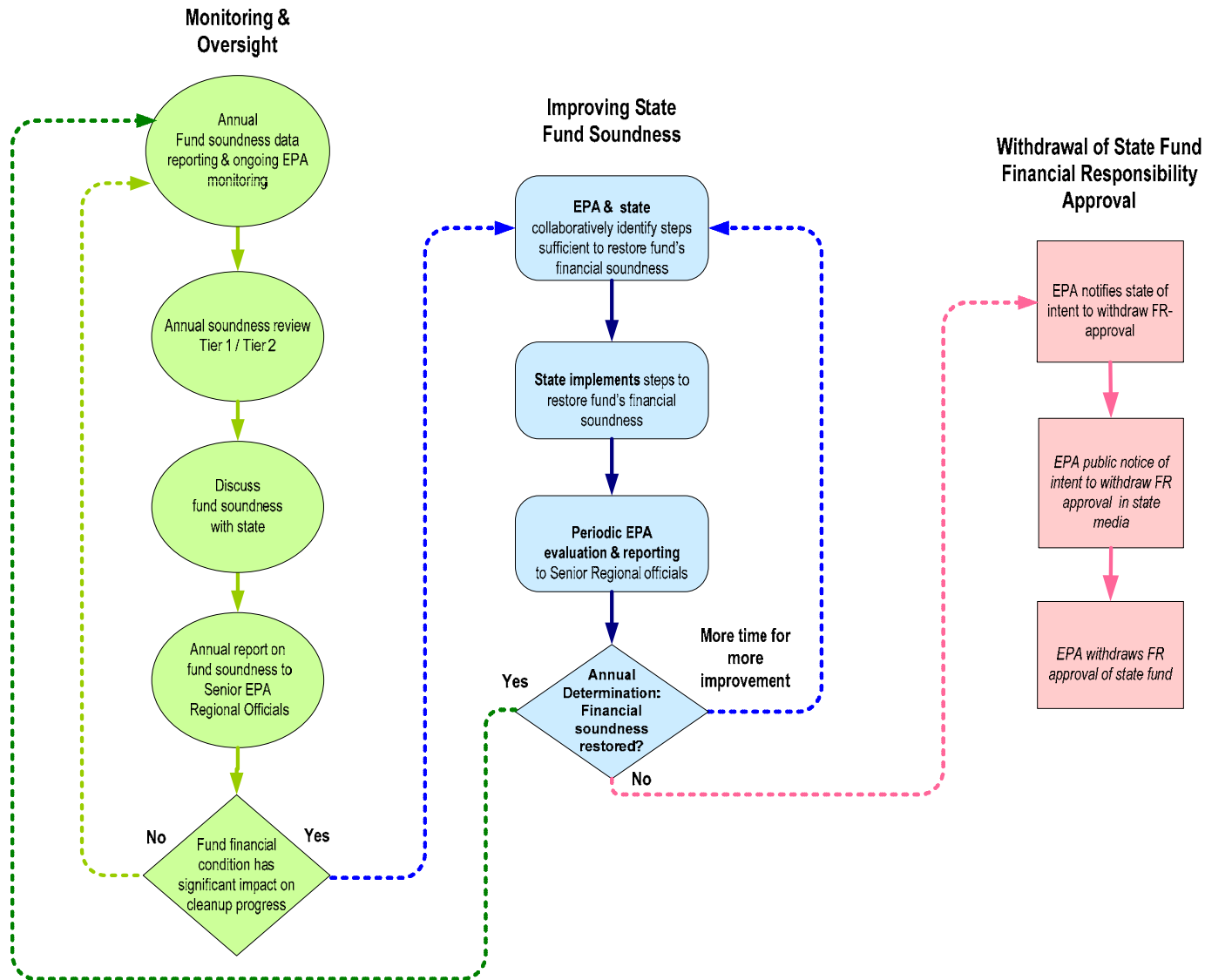
- Written Assessment

- Regions should provide short written assessments of each state's fund based on their review

Focus on Federally-regulated, Fund-eligible Universe



Overseeing Financial Soundness of State Assurance Funds:



Overview of EPA Oversight and Review

- On-going annual reviews
 - Examination of Tier 1 Indicators and Changes
 - More detailed examination in Tier 2
- Significant concerns?
 - “Fund’s financial condition has significant impact on cleanup progress”
 - Collaborative process to identify and implement restorative actions
- Fund soundness restored, oversight continues
- As last resort, withdrawal of fund as mechanism for financial responsibility
 - Owners and operators would need to seek alternative

Fund Soundness Guidance

Status and Next Steps

- Completing Internal Draft
- Circulate Draft for Regional and State Review (Summer 2008)
 - Evaluate selection and effectiveness of Tier 1 indicators
 - Feedback on oversight and review process
- Complete Guidance (December 2008 target)

Upcoming Study of Insurance

- Seeking independent entity to examine 3 issues associated with insurance policies and their implementation:
 - Legal: To what extent do insurance policies comply with the requirements of an approved financial responsibility mechanism?
 - Coverage: To what extent might there be gaps?
 - Impact on Cleanups: To what extent do insurance policies support cleanups?