

**TABLE 5. STATE FUND UPDATES**

Major Legislative Changes		Current Status of Fund	How Success is Measured
AK	UST closure and upgrade grants repealed 7/1/02; UST cleanup grants to be repealed 7/1/2004	UST grant program terminated 6/30/04; converted completely to an UST cleanup loan program	Site closure and site risk reduction
AL	<p>Legislation was passed in September 2003 that changed various aspects of the Fund. The Trust Fund Advisory Board was eliminated and a new nine-member Trust Fund Management Board was appointed. The per gallon fee was raised to \$0.005 per gallon, producing an additional \$8 million per year. The fee can be recommended for increase by the Board on an annual basis up to a maximum of \$0.01 per gallon. All plans and cost proposals must be approved by the Department within 120 days of receipt or the owner can implement the plan/cost proposal as submitted and the Fund must pay for the work performed.</p>	<p>Currently, the Fund has more claims than income. The Trust Fund Management Board is evaluating the need to raise the per gallon fee and discussing how much funding will be necessary to meet the claim demand. An increase in funding can be achieved through procedures included in the September 2003 legislative changes.</p>	<p>The Fund is successful based on the number of cleanups funded and brought to NFA status. Emergencies and sensitive receptors are addressed appropriately. The timely approval of cost proposals and payment requests indicate a successful program.</p>
AR	Pay out for corrective action from 1 million to 1.5 million	Funds available to pay all submitted corrective action plans and third party claims	No formal method
AZ	Eligibility Sunset 06/30/06 Fund Sunset 2013	approx 25 M Cash Balance	Claims processed and paid within 90 days
CA			
CO	No bills were passed.	Maximum surcharge in effect; low Fund balance; have slowed some payments but not longer than statutory requirement.	How quickly claims are paid; cost savings for remediation costs negotiated up front.

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CT	The following changes have been made under Public Act No. 04-244: 1) Notwithstanding the provisions of sections 22a-449a to 22a-449m, inclusive, of the general statutes, on and after July 1, 2005, and prior to October 1, 2005, neither the Underground Storage Tank Petroleum Clean-up Account Review Board nor the Commissioner of Environmental Protection shall accept applications pursuant to section 22a-449f of the general statutes for reimbursement and payments from the account established under section 22a-449c of the general statutes. 2) The provisions of the sections regarding reimbursements of parties pursuant to section 22a-449f, regulations promulgated pursuant to section 22a-449e, and regardless of when an application for payment or reimbursement may have been submitted to the Board, after June 1, 2004, no payment or reimbursement shall be made for any costs, expenses and other obligations paid or incurred for remediation, including any monitoring to determine the effectiveness of the remediation, of a release to levels more stringent than or beyond those specified in the remediation standards established pursuant to section 22a-133K except to the extent the applicant demonstrates that it has been directed otherwise by the Department of Environmental Protection. 3) for all work or services performed or materials provided after October 1, 2004, the Board shall not order payment or reimbursement from the account for any cost paid or incurred, unless the application or preauthorization request seeking payment or reimbursement is received by the Board within 180 days of the date that such work or services were rendered or performed or the date that any materials was provided.	s	
DE			
FL	None		Number of Site Cleanups Completed
GA			
IA	Board given authority to pay to remove or upgrade AST sites by February 18, 2005--limited to \$25,000/site or \$100,000/owner. Board given authority to reimburse to permanently close upgraded USTs by December 31, 2005. Fee sunset extended two years to June 30, 2016.	Fund is currently solvent.	Closure of LUST sites. There are 2,000 (~1,780 eligible claims) LUST sites currently open in the state. 720 of the LUST sites have active tanks. Majority are just LUST sites.
ID			
IL			

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IN	Rule writing going on now.	Fund Balance approx \$32,000,000 as of December 2003; Annual Revenue approx. \$37,000,000; Annual Claims & Expenses approx. \$53,000,000; Approx. 340 claims received / month; Approx. \$7,000,000 requested per month; Approx. \$4,300,000 claims paid/month; Will institute claim priority system when fund balance < \$25,000,000	
KS	None	Following directives from last year's legislative session, the Underground Fund now works from a cash balance without being able to encumber funds for approved work. Encumbrances are still possible for the Above ground Fund.	Prevention of a backlog and lack of 3rd party actions.
KY	In FY 03 \$74.1 million was transferred from KY's fund to the general fund. In FY 04 \$27.1 million was transferred to the general fund.	By Executive Order the Fund was abolished and put under Division of Waste Management. In the state of Kentucky a budget was not passed by the legislators, therefore, our budget for the next biennium is undecided.	
LA	Pending legislation changes the composition of Trust Fund Advisory Board to include two additional La. Oil Marketers Association representatives, eliminates substantial compliance as condition for eligibility, and provides for additional deductibles for sites that are non-compliant with the regulations and the non-compliance is found to have caused or contributed to a release.	The Louisiana Trust Fund continues to be solvent.	We consider our fund successful as remediation of sites is being accomplished, claims are processed in a timely manner and the fund remains solvent.
MA		All revenue goes to general fund as Fund was repealed in FY04.	
MD	none in 2003	1) We continue to review and approve applications as funding allows; 2) We have 50 commercial applications and 66 residential applications waiting to be processed; 3) We have initiated the process to allow reallocation of unused funds back into the Fund.	Sunset requirements have resulted in a rapid decline of applications for commercial RCRA 1 tanks. We are starting to see an increase in commercial applications for heating oil USTs. Residential tank applications saw a significant increase due in part to Tropical Storm Isabel. Limited staff tries to process applications as rapidly as possible when funding allows.

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ME	Fund sunset date extended 5 years to 12/31/10. Effective 01/01/07 the sale of gasoline that contains more than 1/2 of 1% by volume MTBE is prohibited except in emergencies.		
MI			
MN			
MO	None	Healthy. RBCA implemented by regulatory agency this year; will help get old claims closed. Experiencing a slowdown in claims for old releases; believe the majority are behind us.	Tank o/o's receiving timely, professional services; cleanups proceeding expeditiously; mone being spent efficiently & economically.
MS	Legislature took \$2,361,717 from the Fund.	Declining cash balance for the last three years	
MT	MCA 75-11-318 - Board may hire its own staff (DEQ provided the board staff for past 4 years); The board may use the fund to pay for third-party review of corrective action plans or claims; MCA 75-11-309 - Board shall review each claim and determine if the expenses were actual, necessary and reasonable. Board may request comment from the department and owner or operator. MCA 75-11-317 - Expenses for work completed by or on behalf of owner or operator more than 5 years prior to request for reimbursement is not eligible (Law was changed from 2 years)		Fund balance & claim processing time.

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NC	New statutes directed the DENR to determine schedules for further assessment and cleanup - implemented by notifying RPs and landowners that the DENR would direct and reimburse higher risk incidents before directing and reimbursing those of lower risk such as intermediate risk incidents without contaminated soil or significant free product; defines cost effective cleanup and requires that the DENR only approve and reimburse for cost effective cleanups; allocates annually \$2.5 million from the Commercial Fund and \$250,000 from the Noncommercial Fund to be used for performance based cleanups - also requires the posting of a surety or performance bond equal to the amount of the Pfp contract; requires adoption of rules mandating secondary containment for all non tank components of UST systems for any UST systems installed after the implementation date of the rules and for any replacement of any nontank components after that date; and amend rules to make analytical requirements associated with assessment and cleanups less costly.	Commercial fund is short \$30.2 million, Noncommercial fund short \$4.1 million.	Number of complaints received,
ND			
NE	Three different legislative bills impacted the fund this year. LB962 transfers \$1.5 mil from the fund to general funds and extends our release reporting date to 6/30/09. LB983 modified our definition of petroleum. LB1065 transfers \$1.5 million per year from 2004 to 2011 from the fund to a fund for ethanol production incentives.	RBCA Tier 1 and Tier 2 investigation program recently updated and working well. PFP program has 9 contracts in progress at orphan tank sites. Monthly revenue sufficient for work approved at this time.	The number of sites closed. Expenditures keeping pace with revenues. Application payment in less than 60 days.
NH			# of claims processed/cleanups completed
NJ	Legislative changes enacted 8/15/03. Added certain eligible parties, e.g. - Independent Institutions of Higher Education. Increased maximum grant and loan amounts. Increased financial eligibility threshold amounts for hardship grants. Reopened fund to commercial applicants.	Active	Number of grants/loans closed.

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NM	In the Laws of 2004, Chapter 88, the legislature may appropriate up to 30% of the annual distribution to Fund for federal funds match, for underground contamination cleanup, and to address water needs. July 1, 2001 was the effective date for Fund coverage for ASTs.	Since Corrective Action Fund revenues will also be used for other department needs, closer mangement of workplan approvals is required in order not to over obligate the Fund	Protection of drinking water, public health and safety, use of technological and cost effective methods to clean up sites, progress in closure of sites.
NV	In 2003 the statutes were revised to enable adoption of leak detection and prevention regulations for above ground tank systems.	Solvent.	1. Number of cleanups concluded. 2. Reduction of cleanup costs by technology re-review of long-running sites. 3. Identification, through inspections, of sites elligible for reduced cleanup funding due to operational non-compliance to regulations.
NY			
OH	Increase in per tank fee of \$50.00 begins July 1, 2004. New fees are reflected above.	The Fund continues to accept claims for releases occurring before and after 12/22/98. The Board issued revenue bonds for the second time in 1998 in the amount of \$35 millioin. These bonds do not mature until 2013 and no change in the Fund as the State's financial responsibility mechanism is anticipated before that date.	As the Financial Assurance Fund is supported soley by annual tank fees, revenue bond proceeds and interest income, the Board's challenge is to strike a balance between reasonable fee levels and timely reimbursements. Revenue bond debt is being created to allow timely claim reimbursements without excessive fee rates. The Fund's success is measured by the 1) maintenance of an affordable fee structure that generates sufficient revenues to maintain Fund Solvency; 2) maintenance of cleams submissions standards that encourage cost-effective remediations; 3)timely reimbursement of eligible claimed costs; and 4) conformance to all bond trust agreement covenants.
OK	Reduced deductible to \$5,000 and to 1% of total payout of site not to exceed \$5,000. Tank owner to pay in \$1,000 increments per \$100,000 of cleanup expenses.		
PA		Fund is viable and paying claims as they are submitted	Viability of Fund

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RI		Forsee continued solvency, strengthening relationships with DEM and stakeholders	Continued solvency, improving cost efficiency, closing sites
SC	none	The state fund of South Carolina is accepting claims and has sufficient revenues to fund class 1 and 2 releases. We are still paying out on claims for sites discovered before the 12/22/98 EPA deadline.	The number and percent of confirmed releases that are closed per year which were funded by the State fund is a measure of success. The number and percent of cases closed where costs were based on competition is another measure of success as it reflects an effective use of State funds. Efficiency of account administration is another indicator of success. Maintaining a steady cash flow (and account balance) reflects that monthly revenues are promptly being committed for new work (which maximizes cleanup activities in the State) and invoices are being processed in a timely fashion (ensuring accountability). The indicators listed in the Environmental Protection Agency Revion IV solvency report (which includes claim payments, processing times, outstanding debt) are used to determine relative success.
SD	None	The PRCF is able to pay all claims in a timely manner and has sufficient revenue to handle future claims.	Success is measured by the efficiency, timeliness and cost-effectiveness of the corrective action. Success is also measured by the speed of claims approval and maintenance of the fund's solvency.

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TN	<p>Legislation passed amends the law to : (1) make it unlawful to receive or attempt to receive fund reimbursement in a fraudulent manner, refuse or fail to comply with an order of the commissioner or the board that has become final, (2) require payment of all outstanding fees, interest, and penalties to receive a certificate, (3) allow the commissioner to affix a notice or tag to a dispenser and/or fill port and/or give notice on the dept. web site for any tank that doesn't have a current certificate and make removal of such tag or notice a class C misdemeanor, (4) charge a fund maintenance fee per tank for the fiscal year 2004-2005 based on categories, (5) make a release on or after July 1, 2004 ineligible for reimbursement from the fund if an Application for Fund Eligibility is not filed within specified time frames, and (6) require the tank owner or operator to notify the petroleum site owner by certified mail with 7 days of confirmation of a release.</p>		
TX	None this year. In FY04 will update Reimbursement Rules.	Solvent. Fund to Sunset in 9/1/06.	No. of claims processed. Reduction of protested claim backlog. \$ expended.
UT			
VA	None	<p>Virginia continues to make progress with the decreasing of the waiting list for payments. Currently, the wait time is about 6 months down from the 10 months reported in last year's survey. Additionally, claimants who elect the "accelerated payment" option that was introduced two years ago receive most of their money within 1 month. If our monthly income continues to be stable and claim volumes continue to decrease, the delayed payment wait list will be eliminated over time.</p>	<p>Success is measured through: Number of cleanups completed; Average cleanup cost; Claims processing time; Overall "reasonableness" of costs approved; Delayed payment time.</p>

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VT	In 2004, the Vermont Legislature repaid the cleanup Fund \$530,000 of monies previously transferred. The legislature also passed a bill which established a half cent/gallon fee on heating fuels which will generate an additional \$650,000 in annual revenue. \$150,000/year will be used to provide grants to remove and upgrade aging residential and farm ASTs and USTs.	The Fund continues to provide resources to address petroleum releases from USTs and ASTs. Future releases remained covered under the program. Additional revenues were added to the Fund in 2004.	Success of fund is measured by ability to pay claims, solvency and support of stakeholders.
WA			Availability and Affordability of Insurance
WI			
WV	2004 Legislative Resolution to study means to fund the program	Currently in circuit court to determine distribution of remaining funds. Outcome dependent on lawsuit by 7-11 contesting how annual aggregate is defined. Third party contract was terminated due to lack of funds.	
WY		State Fund is solvent and operational.	

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