

TABLE 5. STATE FUND UPDATES

Major Legislative Changes		Current Status of Fund/How Success is Measured	Impacts/Consequences of the Energy Act
AK	**no update in 2008**	Fund is no longer active.	
AL	No new legislation.	Funds are available to pay incoming payment requests./ 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 for all eligible sites indicates a successful program.	
AR	No new legislation	Funds available to pay all submitted corrective action plans and third party claims. / Number of confirmed releases received, sites closed.	
AZ	New legislation limits number of claim submittals. An applicant may only submit one claim per LUST site, per calendar month.	Funds are available to pay claims.Fund "phase out" began with the June 30, 2006 deadline for release reporting. Only releases reported before July 1, 2006 were eligible for coverage from the fund. The next stage of the phase out requires preapproval applications to be received no later than June 30, 2009. No applications will be accepted after June 30, 2010. / Success is measured by the number of claims processed within the statutory timeframes.	None
CA	Effective January 1, 2008, Assembly Bill 1437 expanded the availability and changed the criteria for requesting a waiver of the permitting requirements.	The Fund continues to accept claims for unauthorized releases. An annual appropriation of funds each fiscal year continues to provide for the payment of claims. / Key measurements of the Fund's success is the timely processing of claims and payments.	

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CO	<p>The following passed during the legislative session in 2007:</p> <p>1) The Division of Oil and Public Safety (OPS) is now allowed to be more stringent than Federal regulations on tank closure requirements.</p> <p>2) The Fund may now be used to provide incentives for voluntary UST system leak detection upgrades.</p>	<p>Environmental surcharge has remained at \$100/tanker. Payments are being made within the statutory requirement of 90 days and Fund balance has remained below \$3 million, allowing the surcharge to remain at \$100/tanker.</p> <p>How quickly claims are paid; level of participation by the regulated community; cost savings for remediation costs negotiated up front.</p>	<p>Modifications to our rules and regulations were made to comply with the Energy Act. The draft was presented to stakeholders and their input was obtained during a series of meetings beginning in October 2007. A public hearing regarding the final rules and regulations is scheduled for May 2008 with possible implementation date of June or July 2008.</p>
CT		<p>/</p> <p>Streamlining application processing, fund solvency, and ensuring clean-ups are completed in cost effective manner and in accordance with state remediation standards.</p>	
DE		<p>Fund is currently solvent. /</p> <p>Completed site remediation activity resulting in closed claims</p>	<p>Anticipate that increased inspection frequency will result in increased number of cleanups required.</p>
FL	<p>(Recently passed, pending governor's approval)</p> <p>Legislative funding appropriation for cleanup in FY 08-09 reduced by \$10.5 M (6.4%) from same at beginning of FY 07-08. Funding caps for certain cleanup eligibility programs increased as follows: \$1.0 M to \$1.2M, \$300K to \$400K, and \$150K to \$300K.</p>	<p>The fund is sound and revenues remain steady. Of the 17,787 eligible sites, 32% have cleanups completed, 22% have cleanups underway and the remaining 46% are awaiting cleanup in priority order.</p> <p>By the number of sites cleanup up and the number of potable wells in the vicinity of contaminated sites that have been protected (through periodic surveys, sampling and analysis and , if necessary, filters or alternate water supplies.</p>	
GA		<p>Fund is currently solvent./</p> <p>We consider our fund successful as remediation of sites is being accomplished, claims are processed in a timely manner and the fund remains solvent.</p>	

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IA	Legislature changed DOT funding which affected UST Fund source. Result required UST Fund Board to retire all debt by 6/30/08. Total balance drops from \$60 Million to roughly \$28 million. Also a transfer of \$1.725 million is pending Governor signature that would divert clean up monies for snowmobile and ATV trails.	Fund is currently solvent./ Closure of LUST sites. There are ~1,500 (1,048 eligible claims) LUST sites currently open in the state. About 500 of the LUST sites have active tanks. Majority are just LUST sites.	
ID	None	Fund is solvent / Completed site remediation activity resulting in closed claims	Unknown
IL	Legislation passed in 2007 which allows for third party purchase of unpaid claims (at discount value) from owner thereby providing immediate liquidity to owner.	Cash balance has been depleted. Currently, fund is operating on a cash-in, cash-out basis. Incoming revenues are not high enough to prevent delays in the payment of claims. Revenues received prior to Fund sunset date will not be sufficient to pay all claims. Formal Measure: mandated time frames for technical/budget approvals and for complete claims approval. Informal Measure: The number of sites remediated.	
IN	Legislation was recently passed limiting the amount that can be spent from the fund for administrative expenses. This limitation is 10% of the previous years fees collected.	Since legislation was passed in 2005 increasing the fund revenue the balance has slowly increased and we are now out of priority payment. At the start of each fiscal year the LUST section establishes goals which are monitored through out the year. The success for these established goals are measured thru implementation dates.	
KS	The Kansas Storage Tank Act amended to require Operator Training, and Financial Responsibility for UST installers and manufacturers in accordance with provisions of the Energy Policy Act of 2005. Broadened use of the fund to include expenditures for enforcement and reporting of UST compliance and costs for UST operator training.	Following directives from the legislature, 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.	Broadened use of the fund to include expenditures for enforcement and reporting of UST compliance and costs for UST operator training.

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KY	A biennial budget for FY07 and FY08 was passed that provides \$25 million for claim payments for each year. The \$25 million for FY07 is to be generated from bond sale proceeds, and the \$25 million for FY08 is to be generated from fee receipts, along with an additional transfer from the PSTEAF to the General Fund of \$59.5 million over the biennium.	The backlog of unpaid claims should be effectively eliminated by the close of FY06 (June 30, 2006) which will allow for the initiation of new reimbursable SI and CAP directives. Administrative regulations have been passed to institute a pre-established fixed cost approach to reimbursement to bring about more cost effective and expeditious cleanups. / By evaluating the number of NFA's issued, site investigations completed, and the timeliness of payments compared to past trends.	
LA	Regulation change recently allows the state to choose one contractor in cases where there are two Responsible Parties, each with a release, and each with a contractor and they cannot agree on a single contractor to perform work and submit reimbursement applications.	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.	Since any activity in excess of collected fees and federal grants are offset by the Louisiana fund, an additional \$500,000.00 will be taken out of the fund this fiscal year. In future years, we estimate the offset will increase to \$1 million per year unless Energy Act activities are funded.
MA	Regulations were modified to remove reductions in claim payments as a result of late filings. This has resulted in more funding being returned to the Claimant which can be re-invested back into the site cleanup. In addition, the reimbursement fee schedule was updated to be aligned with current regulations, industry practice, and costs.	The dedicated UST Fund was repealed in 2003. Current funding of the UST Program is provided by annual legislative appropriations as part of the overall state budget. To date, the UST program budget for claim reimbursement has been sufficient to meet claim obligations. However, the budget is expected to be under funded at year-end based on the projected number of claims received by the end of the fiscal year. The budget shortfall projected for FY08 is expected to be approximately \$5 million. / No formal method	Possible effect may be how EPA evaluates and determines FUND soundness. As noted, the dedicated Fund was repealed and the funding source for claim reimbursement is now through annual legislative appropriations, which are currently insufficient to meet claim applications. EPA may view this as a not being a sound funding source.

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MD		a) As of April 2007 the remaining applications awaiting funding are primarily residential tank systems (approximately 6 commercial applications are remaining and awaiting review/funding approval) b) After 12/31/2007, only residential AST and UST heating oil systems will be eligible for reimbursement from the Site Cleanup Fund. / Reduction of application backlog while insuring the Fund balance remains "in-the-black"	
ME	none	Maine's Ground Water Oil Clean Up Fund continues to be closely monitored and managed to remain solvent. / Completed site remediation, protection of human health and the environment. Compliance with operation, maintenance and upgrade requirements.	
MI	No Legislative Activity	Currently processing invoices submitted under the Temporary Reimbursement Program that was established in 2005. Program is expected to end in 2009.	
MN	None	Minnesota's state fund continues to be financially sound. / Fund solvency & claim processing time.	Negligible, to date.
MO	Bill enacted by 2008 legislature will -- if signed by Governor -- extend Fund's sunset date to 2020; will require AST owners to have "FR;" will allow Trust Fund Board to increase annual premiums; will give "red tag" authority to MDNR; and will allow the Board to require extra premium payment and/or site assessment if a new applicant previously had no FR.	Excellent. Cash reserves are sufficient to complete all ongoing cleanups and pay for new claims as they are filed. Board is considering lowering the transport load fee. Fewer old releases are being found; few new releases are occurring at insured facilities. Enjoy broad support from petroleum industry and public officials. / Tank o/o's receiving timely, professional services; cleanups proceeding expeditiously; efficient and cost-effective expenditures from trust fund.	Little or no financial impact on Trust Fund. FR req't for equipment companies may allow more/better recovery of monies spent to clean up releases caused by defective workmanship.

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MS	None	Increase in cash balance from the last year. / Fund balance and processing reimbursement requests in 30 days or less.	
MT	None	Beginning July 1, 2007, Board decided that funds would be obligated to cleanup releases which pose the greatest threat to human health and the environment. Since July the fund has obligated \$2.9 million and non-obligated \$2.2 million. The fund has \$800,000 in claims awaiting revenue. Fund continues to receive approximately \$395,000 per month for claims. / Fund balance & claim processing time.	
NC	None	Considering all obligations of trust fund monies (administration, state-lead contracted work, etc) Commercial fund is in the black by \$17.8 million, Noncommercial fund is in the red by 2.2 million. / Number of complaints received, sites closed.	Not yet known
ND	During the 2007 Legislative session, HB1106 passed which requires a phase II environmental study and a tank integrity test completed for existing tank site that were not previously and continuously registered with the Fund. If contamination exists, the site <u>must</u> be remediated prior to participation in the Fund is approved.	Solvent	
NE	LB1145 - extended the release reporting date from June 30, 2009 to June 30, 2012 for fund coverage	RBCA Tier 1 and Tier 2 investigation program working well. PFP program has 24 contracts at orphan tank sites with 5 completed successfully, 2 did not meet SSTLs with remainder in process. Slowing work at sites to manage fund balance. / The number of sites closed. Expenditures keeping pace with revenues. Application payment in less than 60 days.	none

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NH	A bill to increase motor fuel import fees from \$.015 per gallon to \$.01725 per gallon and extend the fund sunset date(s), passed the NH House. The NH Senate amended the bill to remove the import fee increase, but did retain the sunset date extension from 2010 to 2015. The bill now goes back to the House and is expected to be approved and eventually become law. At this time, it is not clear if an import fee increase will be sought in the 2009 legislative session.	Fund(s) is active, we are re-prioritizing AST/UST cleanups to avoid soundness problems/ # of claims processed and cleanups completed	UST delivery prohibition legislation passed in 2007. Operator training legislation will be proposed for 2009. Current income is not sufficient to meet motor fuel AST/UST cleanup demand, so work is being re-prioritized to avoid soundness problems.
NJ		Fund is being utilized more than ever. Number of applications greatly increased from 2006 (357 applications) to 2007 (666 applications), and is projected to exceed 1,000 applications in 2008. Increase is believed to be mostly due to the initiation of funding for non-leaking, non-regulated heating oil tanks in 2006, as we have found that many tanks thought to be non-leaking have been found to be leaking upon removal, and thus the increase of applications to our program.	No financial impact to the fund from the Energy Act.
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 management 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	Summer 2008 revision to Nevada Administrative Code adopting delivery prohibition and dispenser secondary containment as per Energy Policy Act of 2005	Active & solvent. / 1. Number of cleanups concluded. 2. Reduction of cleanup costs by technology reevaluation of sites. 3. Identification, through inspections, of sites eligible for reduced cleanup funding due to operational non-compliance to regulations.	New legislation currently being implemented and expected in the future. Evaluation of Fund applications will include compliance with new legislative mandates.
NY	None	The fund is currently solvent, but the cash balance has been decreasing every year for the last several years.	

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OH	None	<p>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 million. 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. /</p> <p>The Financial Assurance Fund is supported solely 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 was 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 claims submissions standards that encourage cost-effective remediations; 3) timely reimbursement of eligible claimed costs; and 4) conformance to all bond trust agreement covenants.</p>	
OK	As of 07/01/06, 8% of the \$.01 assessment is apportioned to the OK Dept of Environmental Quality (ODEQ). As of 05/01/08, \$54M of the assessment will go to OKla Dept of Transportation (ODOT) over a span of 9-10 yrs, per an MOU.	<p>Active & solvent. /</p> <p>We consider our fund successful as remediation of sites is being accomplished, claims are being processed in a timely manner and the fund remains solvent.</p>	
PA	Uniform Environmental Covenant Act adopted in february 2008. DEP enlarged "short list" to include TMBs	<p>Fund is viable and paying claims as they are submitted /</p> <p>The Fund undergoes a statutory review every 5 years by an outside entity. In addition, the Fund measures success by a combination of sites remediated and financial status which allows all sites to be addressed.</p>	
RI	Supplemental budget for FY 09 is seeking a 2 million dollar redirect from fund revenues with potential for another 2 million redirect in FY 10	<p>Fund is viable and paying claims as they are submitted/</p> <p>Continued solvency, improving cost efficiency, closing sites</p>	

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SC	House Bill 3292 was introduced in January 2007 to amend SECTION 44-2-60 Code of Laws of South Carolina, Registration of underground storage tanks; environmental impact fee. If passed in current form, initial UST registration fees would be increased by \$35 (from \$100 to \$135) and the environmental impact fee would increase from ½ cent per gallon to one cent per gallon. Bill H.3292 currently resides in the House Committee on Agriculture, Natural Resources and Environmental Affairs.	South Carolina prioritizes releases based on risk and directs site rehabilitation as funding allows. The number and percent of confirmed releases that are closed per year which were funded by the State fund and fund administration efficiency are measures of success.	In 2007, the South Carolina Legislature approved a one-time \$5 Million appropriation for FY 2008 to assist with UST cleanup for high priority sites and in part to address the fund solvency concern.
SD	Senate Bill 203 transfers \$2.5 million from the PRCF to the state highway fund on July 1, 2008.	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.	None

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TN	<p>Amendments to the TN Petroleum UST Act will take effect July 1, 2008.</p> <p>Changes include:</p> <p>1) Amendment of language for a clear statement that the fund is the FR mechanism for all registered tank owners in TN. Fund eligibility for future releases (on or after the effective date of the amendment) will be based solely on registration prior to the release and not on fee payment.</p> <p>2) Language allowing the commissioner to reimburse a tank owner/operator or petroleum site owner for the cost of property improvements currently prohibited if, and only if, the expenditure would save the fund money. [For example, removing and replacing a canopy or signage if that would allow over-excavation of soil contamination in lieu of very costly in situ soil remediation.]</p>	<p>The most recent UST legislative change in TN took effect July 1, 2005. The provisions that impacted the TN Fund were an increase in the annual fee paid by tank owners from \$125 per tank to \$250 per compartment. Also, the legislation provided for changes to the fund deductibles for both corrective action and third party claims. The deductible for both corrective action and third party claims for all tank owners is an up-front \$20,000 per occurrence to be paid before any reimbursement is paid by the fund.</p>	<p>Amendments to the TN Petroleum UST Act will take effect July 1, 2008. Changes include:</p> <p>1) Removal of certificates for delivery from the law. Delivery prohibition will rest solely on the Do Not Deliver list on the UST Web site and on red tags on fill prots and/or dispensers.</p> <p>2) Addition of the authority for the Board to promulgate rules requiring product drop records to be retained and/or supplied to the division. It is anticipated that the regulatory requirements for secondary containment and interstitial monitoring for all tanks and lines and for under-dispenser containment for all motor fuel dispensers will result in fewer releases. These regulations took effect July 24, 2007. It is also anticipated that at least three aspects of the Energy Act will contribute to indentifying releases more quickly and to better operations compliance for preventing releases, both of which will save state fund dollars: (1) the frequency of inspections; (2) the red tag program for non-compliant tanks; (3) operator eductaion and training.</p> <p>The TN Fund pays for all UST Division operating costs, salaries, etc. The Energy Act costs to the TN Fund include: (1) funding three additional inspector positions, (2) purchasing red tags and tamper resistant cable ties, (3) staff time to develop new policies and new regulations and train staff on the delivery prohibition policy, and (3) staff time, production costs and mailing costs for an instructional CD mialled to all tank owners as a part of operator training.</p>
TX	<p>Sunset date for the Fund was extended two years during the last legislative session in 2007. New sunset date is Sept. 1 2012. Any sites in the program that have not been closed at that time will be transferred to the State Lead contracting program where cleanups will be completed.</p>	<p>The Fund is able to pay all claims in a timely manner and has sufficient revenue to handle future claims. /</p> <p>By the number of of cleanups completed, timely review and payment of claims and reimbursing costs in line with the rules.</p>	

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UT	The Utah Underground Storage Tank Program was reauthorized to 2018 by the Utah State Legislature.	<p>Utah's Petroleum Storage Tank (PST) Trust Fund is in sound financial condition based on an October 19, 2007 Actuarial Report prepared by Deloitte Consulting. The report stated that the PST Trust Fund cash balance will remain positive until beyond 2018. A legislative performance audit was conducted on the PST Trust Fund in 2007. The audit found no significant concerns.</p> <p>The Utah DEQ has cleaned up and closed 4,125 LUST sites since the inception of the program in 1989. We still have 481 open LUST sites: 261 are on the PST Trust Fund and 220 are RP lead or LUST Trust.</p>	
VA	None	<p>Claims are released for payment twice a month due to cash flow limitations. Over the past year the average time between claim processing completion and payment has grown from 6 to 14 days. Overall success is measured through: Number of cleanups completed; Average cleanup cost; Claims processing time; Overall reasonableness of cost approved.</p>	The VPSTF has not been directly impacted by the Energy Act. However, there have been indirect cost increases associated with Inspector's travel in order to meet the Act's inspection deadlines.
VT	<p>Passed a bill that creates a fund ceiling at \$6 million in the motor fuel account and \$3 million in the heating fuel account. When the ceiling is reached, the fee will turn off for one year. Also, the Vermont UST Regs adopted on August 1, 2007 now require registration of all heating oil tanks located at public buildings, regardless of size.</p> <p>\$2.9 million was transferred from the fund to help offset lost revenue proposed for a July weekend sales tax holiday.</p>	<p>The Fund continues to provide resources to address petroleum releases from USTs and ASTs. Future releases remained covered under the program. / Success of fund is measured by ability to pay claims, solvency and support of stakeholders.</p>	The increased inspection frequency has resulted in an increase in the discovery of releases from UST systems. Fortunately, secondary containment prevented most releases from impacting the environment.
WA	None	Active and solvent	

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WI	None at this time	Fund no longer provides financial responsibility for owners, they must have other means of meeting the FR requirements, such as self insurance or private sector insurance. Program continues to fund old releases or newly reported releases from systems taken out of service before 12/22/1998 that did not meet the new or upgrade requirements. / Reduction in new sites reported, closure of existing sites, and timely payments of ongoing cleanups.	None at this time
WV		Fund is no longer active.	
WY	Completed revisions to Chapter 17 concerning storage tanks to incorporate Energy Policy Act requirements. Chapter 17 goes before the Environmental Quality Council on May 29, 2008. Likely will be signed by the Governor later this year.		Required revisions to Chapter 17.