

TABLE 5. STATE FUND UPDATES

Major Legislative Changes		Current Status of Fund/How Success is Measured	Increase in claims from sites discovered using funds provided under the American Recovery & Reinvestment Act?
AK		Fund is no longer active.	
AL	A revision to the Trust Fund statute passed the Alabama Legislature which will allow for an increase to the withdrawal from bulk fee and an increase in coverage.	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.	No
AR	Effective July 30, 2009 Act 282 of the General Assembly eliminated the annual self-audit reporting requirement for regulated storage tank owners and operators.	Funds available to pay all submitted corrective action plans and third party claims. / Number of confirmed releases received, sites closed.	No
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.	The Arizona fund had a sunset for release eligibility of June 30, 2006. Releases discovered and reported after this date are not eligible to submit claims for coverage to the Arizona fund.

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CA	<p>Effective January 1, 2009, SB 1161 amended the Fund's statutes: (1) Amended the definition of "UST" to include components that are directly or indirectly connected to the tank such as spill containment beneath the ground and vent lines, vapor recovery lines, and fill pipes that are beneath the ground. (2) This bill established the Orphan Site Fund in the State Treasury and transferred \$30 million over three years from the Fund. (3) Expanded the definition of "purchases or otherwise acquires real property" to include longterm ground lease holders. (4) Added expansion of the permit waiver under limited criteria (5) Extended the Fund's sunset date to January 1, 2016. AB2729 established the School District Account within the Fund and transferred \$30 million over three years to fund Priority Class D school district claims.</p>	<p>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.</p>	<p>Claims submitted for reimbursement of costs from the Orphan Site Cleanup Fund are currently being funded by funds provided under the ARRA.</p>
CO	<p>Regulations are now in place, effective August 2008, that allows for compliance with the Energy Act of 2005. There is now a requirement for operator training and certification effective in 2010, two years ahead of the EPA date of 2012. OPS now has authority to prohibit delivery of product to non-compliant facilities. In addition, secondary containment of all new UST systems is required as well as for those portions of existing systems that are replaced.</p>	<p>The Colorado Petroleum Storage Tank Fund is solvent with a fund balance of just over \$8 million. This amount of fund balance triggers lowering of the Environmental Response Surcharge (the source of 98% of our revenue). OPS has notified the Dept. of Revenue to reduce the surcharge from \$100/tanker to \$50/tanker effective August 1, 2009. Success is measured based on the number and amount of claims paid: for fiscal year 2009 1,813 claims were paid totaling \$24 million, and for the life of the fund 18,082 claims have been paid totaling \$357 million. In addition, payments are being made well within the statutory requirement of 90 days (average of 38 days).</p>	<p>No. Colorado is using the ARRA money to investigate and remediate stagnant LUST Trust sites.</p>
CT		<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. / Completed site remediation activity resulting in closed claims</p>	

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FL	<p>Due to severe Statewide budget reductions, the Legislative funding appropriation for cleanup in FY 08-09 was reduced from approximately \$153 M to \$138 M part way through the FY and was set at only \$90 M for the new FY 09-10. This represents a reduction of approximately \$63 M (59%) over a one year period.</p> <p>Extended deadline for special out of priority funding to conduct soil source removals at eligible sites in conjunction with storage system compliance upgrades.</p>	<p>The fund is sound, though revenues and cleanup appropriations have been significantly reduced over the last few years. Of the 17,532 eligible sites, 34% have cleanups completed, 20% have cleanups underway and the remaining 46% are awaiting cleanup in priority order.</p> <p>Success is measured 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>	<p>Just starting to task initial work on first 16 sites, no work has started yet or been invoiced.</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>	<p>Not Currently.</p>
IA		<p>Fund is currently solvent./</p> <p>Closure of LUST sites. There are ~1,482 (1,045 eligible claims) LUST sites currently open in the state. About 500 of the LUST sites have active tanks. Majority are just LUST sites.</p>	
ID	<p>None</p>	<p>Fund is solvent /</p> <p>Completed site remediation activity resulting in closed claims</p>	<p>No</p>
IL	<p>The Illinois General Assembly created a task force to review Illinois' tank program and funding issues.</p>	<p>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. There is a backlog of approved payments totaling \$66 million, and it takes 18 months to get paid.</p>	<p>No</p>

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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 total revenue.	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.	No
KS	None.	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.	None.
KY	A biennial budget for FY09 and FY10 was passed that provides \$25 million for claim payments for each year from a combination of fee receipts and bond sale proceeds. The budget requires an additional transfer from the PSTEAF to the General Fund of \$60 million over the biennium.	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	Two Trust Fund staff positions eliminated because of budget issues. This is in addition to one position lost in 2006. Trust Fund staff now numbers nine.	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. Fund balance determined by new GASB requirements since July 1, 2007.	No increase in claims has been detected, but still early in the process.

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MA	No new legislation promulgated. Proposed regulations include: 1) increasing the reimbursement ceiling for petroleum non-marketers from \$500,000 to \$750,000; and 2) increasing the submittal deadline for the Application for Eligibility from 6 months to one year from when the release was reported.	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 reimbursements has been sufficient to meet claim obligations. However, this year, no supplemental budget was approved and the shortfall for FY09 is \$1.75 million. There is no formal method for measuring "success".	Was not applicable in FY2009 (July08 - June09)
MD	none	(a) After 12/31/2007, only residential AST and UST heating oil systems are eligible for reimbursement from the Site Cleanup fund.(b) There have been 523 residential applications since the residential reimbursement program was initiated of which 188 applications remain open at this time. (c) Although no applications can be accepted for RCRA I and Commercial USTs, approximately 36 previously approved applications remain open (i.e. allocated funds remain - cleanup ongoing).(d) Reduction of application backlog while insuring the Fund balance remains "in-the-black"	none
ME	Amended registration fees to reduce processing costs. New siting law restricts development of new UST and AST facilities to protect water supplies and sensitive geologic areas, requires new and replacement AST's in public water supply zones to be double walled. Requires operator training and authorize use of red tag. Extended fund sunset date to 12/31/2015	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.	No. Maine directed ARRA funds to removing and remediating (abandoned/neglected) contaminated bare steel tank sites that are ineligible for coverage by the state fund

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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.	Not applicable. The fund stopped accepting claims in August of 2007.
MN	None	Minnesota's state fund continues to be financially sound. / Fund solvency & claim processing time.	Unknown at this point.
MO	none	Excellent. Cash reserves are sufficient to complete all ongoing cleanups and pay for new claims as they are filed. The transport load fee was lowered to 1/4 cent in Sept 2008 -- lowest since 1995. 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.	No.
MS	Increase limit/release to \$1.5 million	Fee collection suspended due to \$10 million unobligated ceiling accuracy	\$0
MT	Effective Oct 1, 2009: 1. Releases from double walled UST systems co-payment goes from \$0.00 to \$5,000.00 or \$17,500 depending upon tank type. 2. Fund floor raised to \$6 million and ceiling raised to \$10 million. 3. If an insurer pays owner/operator for eligible costs, payment is considered as co-payment contribution if owner/operator received payment before submitting claims to Fund.	Board staff continues to obligated funds to cleanup releases which pose the greatest threat to human health and the environment. The fund has \$800,000 in claims awaiting revenue. Fund continues to receive approximately \$395,000 per month for claims. As of June 2009, the fund has \$4.65 million in obligated corrective action plans and \$2.5 million in non-obligated plans. Fund balance & claim processing time.	

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NC	Tank fees increased to \$420 per tank; statute of limitations of one year from completion of any task that is eligible to be paid by the cleanup funds to file for eligibility or reimbursement; statute of limitations for cost recovery of 3 or 5 years depending on action, and anytime if the recovery is a result of fraud; pilot program to use site specific cleanup standards as an alternative to risk based standards; up to \$3 million of commercial fund money may be used solely for the removal of free product at sites not currently under direction to proceed with corrective actions.	Considering all obligations of trust fund monies (administration, state-lead contracted work, etc) Commercial fund is in the red by \$.8 million, Noncommercial fund is in the red by 2.2 million. / Number of complaints received, sites closed.	No
ND	During the 2009 Legislative session, HB1098 passed which eliminated the sunset date.	Solvent	none
NE	LB165 - increased the amount paid to the NE Department of Revenue to collect the petroleum fees from \$28,000 to \$150,000 per year.	RBCA Tier 1 and Tier 2 investigation program working well. PFP program has 27 contracts at orphan tank sites with 8 completed successfully, 5 contracts terminated, and 14 in process. / The number of sites closed. Expenditures keeping pace with revenues. Application payment in less than 60 days.	no

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NH	A bill to increase increase import fees from \$.015 per gallon to \$.01725 per gallon for our motor fuel fund was retained by the House and may be re-considered in 2010. Another bill to lapse that same motor fuel fund 3 years early and transfer most of the income to the highway department was defeated. (The motor fuel fund is our EPA-approved FR fund.) A bill to increase import fees from \$.01 to \$.0125 per gallon for our fuel oil fund is expected to pass, but it was amended to include a performance audit of our fund program. The audit is in progress.	Motor fuel fund(s) is active, we are re-prioritizing AST/UST cleanups to balance expenditure demand with revenues. Fuel oil fund has a significant deficit. The bill to increase fuel oil import fees from \$.01 to \$.0125 per gallon is expected to pass, including a one-time transfer of revenue from another oil cleanup fund to address claims backlog. Measurement is based on # of claims processed and cleanups completed	None at this time
NJ	<u>A-2438</u> - Increased grant cap for Institutions of Higher Education from \$500K to \$1.5 million. <u>A-3739</u> is currently pending governor's signature, and specifies the following: Allows for a "pre-approval" of financial assistance eligiblity prior to work being performed; Allows for eligibility of emergency response costs related to remediation of residential heating oil USTs; Allows for reimbursement of costs incurred prior to submission of a funding application for non-profits, fire, ambulance, emergency, first aid and rescue squads; Ties the eligible costs for the state's Non-Leaking Tank Fund program to the current Leaking Tank Fund program; & Requires the publishing of the UST Fund Cost Guide in the New Jersey Register.	Number of applications keeps increasing each year; from 2006 (357 applications) to 2007 (667 applications), to 2008 (1,225 applications) and is projected to exceed 1,500 applications in 2009. Increase is believed to be mostly due to the initiation of funding for non-leaking, un-regulated heating oil tanks in 2006, as many tanks expected to be non-leaking have been found to be leaking upon removal, and thus the increase of applications to our program. In addition to the Leaking UST program, the Non-leaking UST Program has funded approximately 8,000 closures and replacements (w/ASTs) of residential heating oil tanks.	NA
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 to effectively manage 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.	As of June 29, 2009 the Department has not received any ARRA funds, anticipate receiving ARRA funds in fiscal year 2010.

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NV	Fall 2009 final revisions to Nevada Administrative Code will include: adoption of environmental covenants, revising release response and reporting requirements, removing TPH and TCLP requirements, clarifying criteria for cleanup exemption and termination.	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.	No
NY	None	Fund is solvent. Payment vouchers presented by State cleanup contractors for work performed are paid promptly.	No
OH	None	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. / 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.	Sites assessed and/or cleaned up using funds provided through the American Recovery and Reinvestment Act will be identified by the regulating authority, the Bureau of Underground Storage Tank Regulations. At this time, there are no plans for Ohio's Fund to contribute to the distribution or management of any funds made available through the ARRA.
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.	Active & solvent. / 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.	No

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PA		Fund is viable and paying claims as they are submitted / 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.	
RI	Supplemental budget for FY 09 diverted a half cent from the tax revenue to the RI Public Transportation Authority	Claims currently exceed Fund balance	
SC	Bill H. 3270 was introduced in January 2009 to amend Section 44-2-60 Code of Laws of South Carolina, relating to the registration of underground storage tanks so as to establish new annual renewal fees and to require that the additional revenue generated from the tank fee increases be deposited into the SUPERB account. The annual tank renewal fee in South Carolina is currently \$100. If passed in current form, annual tank fees would increase by \$100 each year over four years, ultimately reaching \$500 per tank, and would remain at this level until an additional \$36 million is generated and deposited into the SUPERB account. When the SUPERB account is credited with the additional \$36 million, the annual tank fee will revert to \$100 per tank. No portion of the additional tank fee revenue may be used by the Department of Health and Environmental Control for administration of the UST Program. Bill H. 3270 resides in the Senate Committee on Medical 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.	
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.	No

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TN	NONE	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.	NO
TX	None	The Fund is able to pay all claims in a timely manner and has sufficient revenue to handle future claims. Success is measured by the number of cleanups completed, timely review and payment of claims and reimbursing costs in line with the rules.	NA
UT	The Utah Underground Storage Tank Program was reauthorized to 2018 by the Utah State Legislature.	Utah's Petroleum Storage Tank (PST) Trust Fund is in sound financial condition based on an October 3, 2008 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. The Utah DEQ has cleaned up and closed 4,243 LUST sites since the inception of the program in 1989. We still have 463 open LUST sites: 231 are on the PST Trust Fund, 225 are RP lead or LUST Trust, and 7 are being overseen by the UST Compliance Section.	None

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VA	None	Claims are released for payment once a month due to continued cash flow limitations. Over the past year the average time between claim processing completion and payment has grown from 14 to 19 days. Overall success is measured through: Number of cleanups completed; Average cleanup cost; Claims processing time; Overall reasonableness of cost approved.	None
VT	Fund extended an additional five years until July 1, 2014.	The Fund continues to provide resources to address petroleum releases from USTs and ASTs. Future releases remain covered under the program. / Success of fund is measured by ability to pay claims, solvency and support of stakeholders.	We have not seen any increase in claims due to sites discovered using ARRA funds, however work has just been initiated under this program. An increase may be seen in following years.
WA	None	Tax reinstated on July 1, 2009 and is expected to remain on until March 30, 2010. It should generate approximately \$28.5 million.	
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.	Unknown at the present time
WV		Fund is no longer active.	

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WY	Completed revisions to Chapter 17 concerning storage tanks to incorporate Energy Policy Act requirements. Signed by Governor November 2008	Active and solvent	None