

What is the LUST Trust Fund?

In 1986, the U.S. Congress amended Subtitle I of the Solid Waste Disposal Act through the Superfund Amendments and Reauthorization Act ([SARA; P.L. 99-499](#)). The amendments established a leaking underground storage tank (LUST) response program and created the LUST Trust Fund. In 2005, the U.S. Congress enacted the Energy Policy Act of 2005, which authorized the use of LUST Trust Fund money to support some leak prevention activities ([EPAct 2005; P.L. 109-58](#)).

The LUST Trust Fund is financed by a 0.1 cent tax on each gallon of motor fuel sold in the United States. The taxing authority for the Fund has been reauthorized numerous times and is currently set to expire on September 30, 2016.

What does the LUST Trust Fund support?

The LUST Trust Fund provides funding to support the U.S. Environmental Protection Agency's (EPA's), States' and Territories' (States'), and Tribal LUST prevention and response programs. More specifically, the LUST Trust Fund supports U.S. EPA, States, and Tribes by providing funding:

- to oversee corrective action taken by a responsible party;
- to cleanup LUST sites where there is no known or financially viable responsible party;
- for emergency response activities; and
- to support some leak prevention activities associated with EPAct 2005 ([EPA Memorandum, re: Prevention Funding under LUST Trust Fund Program](#), May 8, 2008).

How do States receive LUST Trust Fund money?

States must enter into assistance agreements with U.S. EPA to ensure that allocated funds are used for their intended purpose. U.S. EPA has developed the following guides for these assistance agreements and is currently in the process of updating these documents for release during FY 2015:

- [LUST Trust Fund Cooperative Agreement Guidelines](#), May 24, 1994. Describes appropriate use of LUST Trust Fund cleanup money for cooperative agreement recipients.
- [Cost Recovery Policy For The Leaking Underground Storage Tank Trust Fund](#), May 24, 1994. Identifies cost recovery policies and procedures for LUST cleanup cooperative agreement recipients.
- [Memorandum on Use of LUST Trust Fund Appropriations at Abandoned Sites with Underground Storage Tanks](#), October 15, 1999. Provides additional information on eligible uses of LUST Trust Fund cleanup money.
- [LUST State Financial Management Handbook](#), March 1989. Describes the financial management responsibilities for State LUST cleanup cooperative agreement recipients.

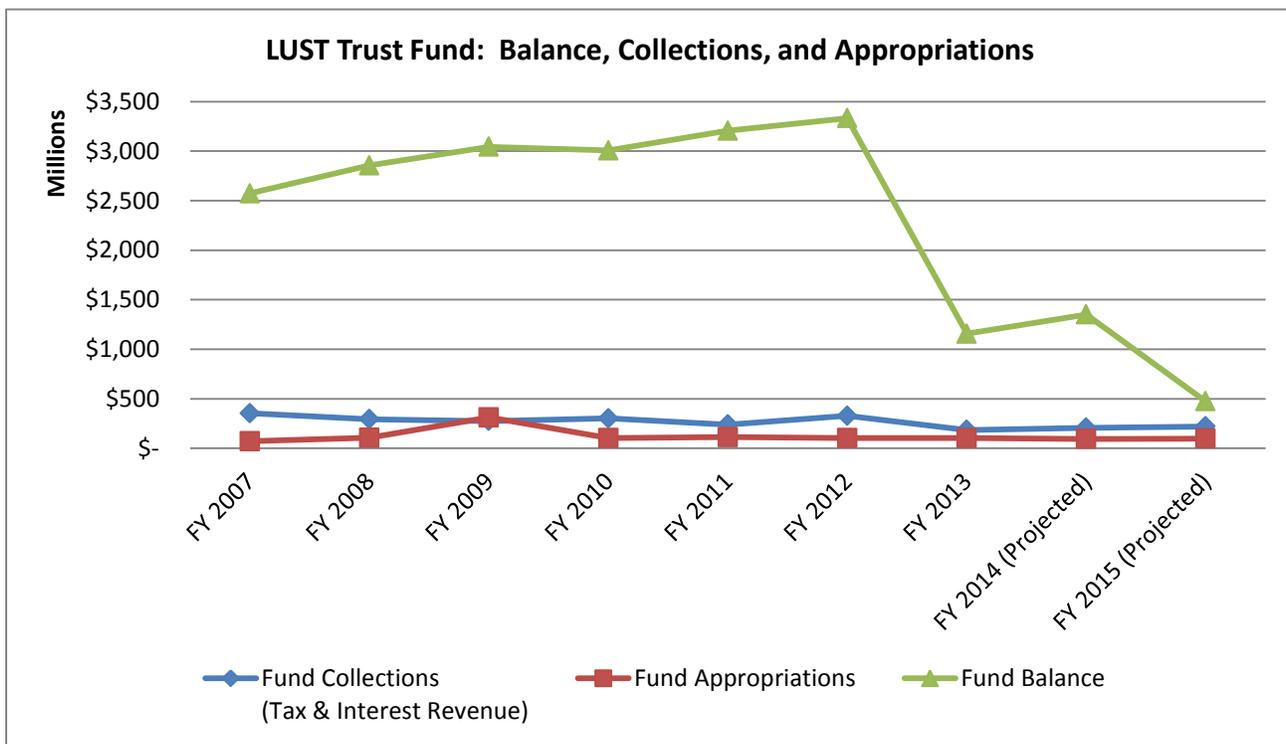
How is the LUST Trust Fund appropriated and allocated?

The U.S. Congress appropriates LUST Trust Fund money each federal fiscal year to the U.S. EPA. Eighty percent (80%) of the annual cleanup appropriation must be allocated to States (P.L. 109-58, §1522). EPA uses the remaining funds to support tribal programs and EPA cleanup program administration, as well as State and Tribal prevention programs. For State allocations, the U.S. EPA uses an allocation formula based on State data, program performance measures, and other priorities to divide the money among the 10 U.S. EPA regions. U.S. EPA’s regional offices then determine the final amount each State receives.

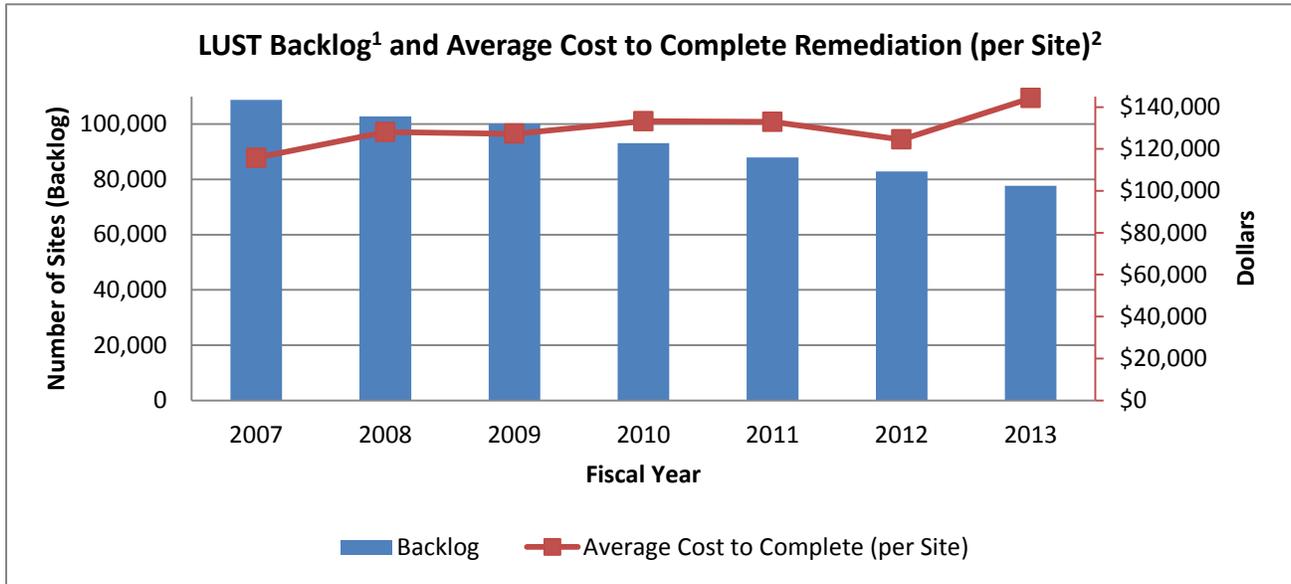
LUST Trust Fund Budget

The LUST Trust Fund historically receives more revenue through the motor fuel tax and interest than it appropriates to U.S. EPA each year. One notable exception was FY 2009 when Congress appropriated an additional \$200 million to U.S. EPA as part of the American Recovery and Reinvestment Act.

The graph below illustrates the LUST Trust Fund annual balance, collections (tax and interest revenue combined), and appropriations. FY 2014 and FY 2015 include projections provided in the FY 2015 Budget of the United States Government from the Office of Management and Budget. The annual Fund Balance accounts for a transfer of \$2.4 billion from the LUST Trust Fund to the Highway Trust Fund in FY 2012, and a projected transfer of \$1.0 billion from the LUST Trust Fund to the Highway Trust Fund in FY 2015, which the U.S. Congress approved in July 2014.



Considerations



Estimated Total Costs to Address Backlog³

| FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 |
|-----------|-----------|-----------|-----------|-----------|-----------|----------|
| \$12.59 B | \$13.16 B | \$12.74 B | \$12.40 B | \$11.69 B | \$10.32 B | \$11.21B |

¹Backlog numbers provided in U.S. EPA’s [Semiannual Report of UST Performance Measures](#), 2007-2013

²Average cost to complete remediation per site provided in ASTSWMO [Annual State Fund Survey](#), 2007-2013

³Estimated total costs calculated by multiplying the average cost to complete remediation at each site by the annual backlog. This does not include new releases that may occur in the future and monies that have already been expended to address the backlog.

- U.S. EPA released [The National LUST Cleanup Backlog](#) study in 2011, which reports that “sufficient LUST Trust monies are not available to address all eligible sites.”
- ASTSWMO released the [Development and Implementation of State Tanks Core Programs](#) report in 2014. The report found that:
 - For States with a combined LUST and State Trust Fund program, federal grants (including the LUST Trust Fund) fund approximately 26% of the programs in States with more than 10,000 active tanks and 35% of the programs in States with less than 10,000 active tanks.
 - For States with only a LUST program, federal grants (including the LUST Trust Fund) fund approximately 33% of the programs in States with more than 10,000 active tanks and 72% of the programs in States with less than 10,000 active tanks.
- Congress has typically allocated approximately 30% of the annual LUST Trust Fund appropriation to leak prevention activities since EPA 2005 expanded eligible sites to include leak prevention.
- Emerging issues that may impact State LUST programs include alternative fuels compatibility issues (ex., ethanol, biofuels) and petroleum vapor intrusion.