

**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AK	UST closure and upgrade grants repealed 7/1/02; UST cleanup grants repealed 7/1/2004	UST grant program terminated 6/30/04; converted completely to an UST cleanup loan program	Site closure and site risk reduction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	No new legislation from 6/1/2005 Thru May 12, 2006	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	Fund "phase out" begins with June 30, 2006 deadline for release reporting. Only releases reported before July 1, 2006 are eligible for coverage from the fund. 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.	Funds are available to pay claims.	Success is measured by the number of claims processed within the statutory timeframes.
CA		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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<p>CO</p> <p>Changes Effective 7/1/05</p> <p>1) Increased the environmental surcharge and changed the formula by which the surcharge is calculated. Increased the statutory limits for reimbursement from \$1M to \$2M per site per occurrence and the fiscal year limits for applicants who have multiple sites from \$2M to \$3M per fiscal year. The Fund was made an enterprise fund and thus exempt from certain taxation limits in Colorado. Definition of "property owner" was expanded from to include "current and former property owners" as persons who may have recourse to the Fund.</p> <p>2) OPS now has authority to inspect for operational compliance, environmental assessments and cleanups at petroleum distribution facilities located on Fee Lands for purposes of determining eligibility to the Colorado Petroleum Storage Tank Fund (these are lands owned by American Indian Tribes located primarily in SW Colorado).</p> <p>3) Legislation was again defeated that would have removed some programs currently under OPS. If this legislation had passed, it may have opened the door to further breakup of the division including administration of the Fund. This legislation was defeated in a Senate committee due to intense lobbying from members of the petroleum industry.</p>	<p>Environmental surcharge increased to \$100/tanker on July 1, 2005. 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 since the increase.</p>	<p>How quickly claims are paid; level of participation by the regulated community; cost savings for remediation costs negotiated up front.</p>

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CT	<p>P.A. 05-3 -- Revise the definition of a responsible party to include a person or entity who has ever owned or operated an underground storage tank or underground storage tank system from which there is or has been a release, allow the Commissioner of Environmental Protection to make payments to assignees from the underground storage tank petroleum clean-up account, prohibit payment or reimbursement from such account for diminution in property value, establish a maximum payment or reimbursement from the account to third parties, establish a maximum payment or reimbursement from the account for attorneys' fees, establish a "pay for performance sub-account" within the account, establish deadlines for submissions of multiple applications relating to a subject release or suspected release, add provisions regarding payment or reimbursement to a party from a source other than the account, provide the commissioner with authority to establish a schedule for the maximum amount to be paid from the account for labor, equipment, materials, services or other costs, require written approval by an environmental professional or the commissioner, depending on the dollar amount, prior to the board ordering or the commissioner making payment from the account, allow an environmental professional's fees to be included in an application or request for payment or reimbursement from the account, revise the requirement for payment or reimbursement from the account regarding demonstration of the lack of compliance with the general statutes and regulations governing underground storage tank systems as a proximate cause of the subject release or suspected release, require an applicant to submit audits regarding current compliance of existing underground storage tank systems, allow the board to reduce the payment or amount to be reimbursed to an applicant due to noncompliance with certain regulations and statutes regarding underground storage tank systems, allow expedited payment or reimbursement from the account at a reduced percentage based on the average amount previously paid for a particular activity, costs or expense, establish a response milestone requirement prior to payment.</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		

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FL	<p><b>Off-Site Contamination Noticing</b> Effective 09/01/05, Chapter 376.30702, Florida Statutes requires that responsible parties provide initial notice of contamination that is discovered (from laboratory analytical results that comply with appropriate quality assurance protocols) beyond the boundaries of the property at which site rehabilitation was initiated to the Department of Environmental Protection (DEP) within 10 days of discovery with a copy to the County Health Department. The DEP must then send a copy of such notice or equivalent notification within 30 days to the owners of record of any real property at which contamination has been discovered as well any tenants of the source property. Additional requirements apply to noticing for off-site properties that are schools.</p>	<p>The fund is sound and revenues continue to grow. Of the 18,035 eligible sites, 28% have cleanups completed, 27% have cleanups underway and the remaining 45% are awaiting cleanup in priority order.</p>	<p>By the number of sites cleanup up 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 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>
IA	<p>Legislature passed law to incent usage of Renewable Fuels. Law provided tax incentives to retailers for selling more ethanol or biodiesel. Also created fund to provide grants to upgrade infrastructure system to be compatible with biofuels. Used \$7 million of UST Fund cleanup monies for the new fund.</p>	<p>Fund is currently solvent.</p>	<p>Closure of LUST sites. There are 1,695 (~1,487 eligible claims) LUST sites currently open in the state. 567 of the LUST sites have active tanks. Majority are just LUST sites.</p>
ID			
IL	<p>Currently, no legislative changes.</p>	<p>Cash balance has been depleted. Currently, fund is working on a cash-in, cash-out basis. Incoming revenues are not high enough to prevent delays in the payment of claims.</p>	<p>Formal Measure: mandated time frames for technical/budget approvals and for complete claims approval. Informal Measure: The number of sites remediated.</p>
IN	<p>The Indiana Legislature has passed legislation increasing the funds revenue to approximately \$51 million per year. This becomes effective July 1, 2005.</p>	<p>The Fund balance is currently running approx. \$8 million which has put us in priority payment of the claims. We currently receive approx. 309 claims per month for about \$6.5 million. Until the additional revenue is realized and the fund reaches \$25 million we will stay in priority payment.</p>	<p>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 mearsured thru implementation dates.</p>

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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.
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. Amended administrative regulations have been filed 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	Proposed legislation is being considered in the current session that would eliminate the "cause or contribute" language for eligibility. The proposed legislation would make releases eligible with a \$5000 deductible if in full compliance or with a \$10000 deductible if not in full compliance. The proposed legislation also allows the state to place a lien on the property in lieu of the deductible for inactive sites.	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			No formal method
MD	None in 2006; However, law became effective July 1, 2005 as follows: 1) Fee increased from \$.01/bbl to \$.0175/bbl until 2010; 2) Applications for RCRA USTs no longer accepted after 6/30/05; 3) Applications for non-RCRA USTs no longer accepted after 12/31/07; 4) applications for residential heating oil ASTs and USTs accepted until 6/30/2010; 5) Deductible for residential tanks reduced to \$500 and ceiling increased to \$20,000.	a) Regulations amended in 2005 to reflect changes in law. b) As of April 2006 we had approx. 24 commercial applications and 43 residential applications to be reviewed. c) After 12/31/2007, only residential heating oil systems will be eligible for reimbursement from Site Cleanup Fund.	Reduction of application backlog while insuring the Fund balance remains "in-the-black"

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ME	<p>Legislation passed &amp; signed: Owners of AST facilities with underground piping must register their facilities and submit cert. 3rd-party annual compliance inspection results of underground piping to Dept.; effective 1/1/07 for non-diesel motor fuel facilities and 7/1/09 for diesel facilities. Effective 7/1/06, all new and replacement underground piping installed after 6/24/91 associated with an AST facility must meet UST piping requirements. Compliance deadlines for upgrading non-conforming piping is based on date of installation.</p>	<p>Maine's Ground Water Oil Clean Up Fund continues to be closely monitored and managed to remain solvent.</p>	<p>Completed site remediation, protection of human health and the environment. Compliance with operation, maintenance and upgrade requirements.</p>
MI	<p>On June 7, 2005, the Refined Petroleum Advisory Council (Council) made its recommendation to the Governor and Legislature as to how to spend the approximately \$60 million left over from the former Michigan Underground Storage Tank Financial Assurance (MUSTFA) Fund. Their recommendation included approximately \$45 million to be spent under a temporary reimbursement program at sites that had approved claims under the old MUSTFA fund but have yet to be closed, assuming they meet certain eligibility criteria, with the remainder to be used at high-risk orphaned sites as determined by the DEQ.</p> <p>As part of the FY06 Appropriations Bill, these funds were appropriated per the Council's recommendations, as was an additional \$42 million dollars (from FY05 &amp; FY06 revenues), to be used to initiate a more long-term Refined Petroleum Product Cleanup Program.</p>	<p>There is currently implementing legislation proposed to allow for spending of the \$60 million that was part of the Council's initial recommendations and subsequently appropriated. The Council is working on its recommendations for the Refined Petroleum Product Cleanup Program, for which \$42 million has been appropriated to date and will be additionally funded by future revenues. Anticipated revenues available for addressing backlog of LUST sites are limited.</p>	<p>To be determined upon enactment of further legislation.</p>
MN	<p>none</p>	<p>Minnesota's state fund continues to be financially sound.</p>	<p>Fund solvency &amp; claim processing time.</p>

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MO	None	Healthy. RBCA implemented by regulatory agency in 2004; has allowed closure of old claims. Fewer old releases being found; very few new releases occurring. 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.
MS	Legislature has taken \$3,100,000 since December 2004	Increase in cash balance for the last year.	Fund balance and processing reimbursement requests in 30 days or less.
MT	<b>Eligibility change:</b> A release from an underground tank that was unknown to both the board and DEQ is eligible if owner/operator closed the tank within 30 days of discovery. <b>Reimbursement change:</b> An owner/operator that is issued an administrative order by DEQ pertaining to tank operation and management shall have all future claims suspended until the administrative order has been resolved. The owner/operator is then reimbursed at a reduced rate according to criteria established by the board.		Fund balance & claim processing time.
NC	Codified what had been passed as session law in a budget bill from FY04. The DENR can only preapprove assessment and remediation work if the work can be reimbursed within 90 days of review of the claim.	Considering all obligations of trust fund monies (administration, state-lead contracted work, etc) Commercial fund is short \$.3 million, Noncommercial fund is in the black by about 2.2 million.	Number of complaints received, sites closed.
ND		Solvent	
NE	no changes during this legislative session.	RBCA Tier 1 and Tier 2 investigation program working well. PFP program has 14 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		Active	# of claims processed/cleanups completed
NJ	There is legislation currently introduced and pending that would reopen the UST Fund to regulated tank applicants. There is separate legislation that has been introduced and is pending that would open the UST Fund to replacement of non-leaking home heating oil tanks. Currently the fund is only for remediation caused by leaking USTs.	The UST Fund is currently closed to regulated tank applicants, as the statute that governs the fund had an application deadline for regulated tanks of June 30, 2005. The UST Fund continues to be open to residential home heating oil UST applicants.	The UST Fund measures success by the number of applications processed as well as the dollar amounts of grants/loans approved and disbursed.

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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 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	In 2003 the statutes were revised to enable adoption of leak detection and prevention regulations for above ground tank systems. 2005.Final stages of adoption of regulations for leak detection and leak prevention on Above Ground Marina Storage Tanks.	Active & 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 eligible for reduced cleanup funding due to operational non-compliance to regulations. 2005. 4. Utilization of Tank Tracer Test to verify there is not an ongoing release in certain situations.
NY			
OH	Increase in per tank fee of \$50.00 begins July 1, 2006. New fees are reflected above. Fee increase for reduced deductible of \$50.00 also begins July 1, 2006.	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.	As 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 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 claims submissions standards that encourage cost-effective remediations; 3)timely reimbursement of eligible claimed costs; and 4) conformance to all bond trust agreement covenants.
OK		Active & 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.
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.

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RI	Article 27 of the Governor's Budget aims to enfold the employees of the Board into the Department of Environmental Management while maintaining an advisory Board. Additionally, the article seeks to add a grant program for removal of USTs at sites located in environmentally sensitive locations. Last year the administration passed a 2.M reappropriation by end of FY 06 - there is currently legislation pending that would give the administration the ability to withhold giving us the tax receipts instead of taking from our current balance.	Fund is viable and paying claims as they are submitted	Continued solvency, improving cost efficiency, closing sites
SC	none	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.

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TN	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.		
TX	Sunset date for the Fund was extended two years during the last legislative session in 2005. New sunset date is Sept. 1 2008. 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.	The Fund is able to pay all claims in a timely manner and has sufficient revenue to handle future claims.	By the number of of cleanups completed, timely review and payment of claims and reimbursing costs in line with the rules.
UT	In the 2006 Utah Legislative session, the Utah UST Act was amended to require UST facility owner/operators to put all of their USTs on the PST Trust Fund or to take all of them off. The law will become effective January 1, 2007.	Sound.	The Utah DEQ has cleaned up and closed about 3,907 LUST sites since the inception of the program in 1989. We still have about 508 open LUST sites (includes 13 suspected release sites). Of the 508 open LUST sites, 293 are on the PST Trust Fund and 215 are RP lead or LUST Trust.

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VA	None	Virginia exited Delayed Payment during the 4th Quarter of 2005. Claims are now released for payment the week following final authorization, which is the final step in claim processing.	Success is measured through: Number of cleanups completed; Average cleanup cost; Claims processing time; Overall "reasonableness" of costs approved.
VT	No legislative changes over the past year.	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	The program was reauthorized until 2013 by the 2006 Legislature. The 2007 budget also returned \$3.75 million of the \$7.5 million fund transfer authorized in 2005.	Solvent	Availability and affordability of Pollution Liability Insurance
WI	Effective April 1, 2006 the inspection fee (PIF) was reduced by the legislature from \$.03 to \$.02. Act 124 (only FY '06) Low income energy assistance-transferred 6 million from PIF. Act 269 transfers 3 million yearly of PIF spending authority for payment to localities for natural disasters.	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.

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WV	2004 Legislative Resolution to study means to fund the program; came up with no recommendations	Still 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	No bills have been proposed or introduced.	State Fund is solvent and operational.	Success is measured by the financial stability of account and ability to pay contractors/consultants who accomplish remediation work for the state.

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