

TABLE 5. STATE FUND LEGISLATIVE UPDATES

AK	WE ARE WORKING ON AN AST PROGRAM. LEGISLATION FOR AST PROGRAM AND \$0.01/GAL FUEL TRANSFER FEE TO FUND PROGRAM WILL BE INTRODUCED IN OUR NEXT LEGISLATIVE SESSION IN JAN. 1997. ALSO OUR BOARD IS SCHEDULED TO SUNSET 6/30/96 AND WE WILL TRY TO GET LEGISLATIVE APPROVAL TO EXTEND UNTIL YEAR 2000.
AL	
AR	NONE
AZ	7/15 - 1) DEDUCTIBLE CHANGES TO 10% COPAYMENT. 2) MUST HAVE FINANCIAL RESPONSIBILITY TO ACCESS FUND. SOME EXCEPTIONS. 3) CAP CHANGES TO \$500,000 - GROUNDWATER AND SOIL. 4) PREAPPROVAL OF WORK REQUIRED - 8/1/96. 5) UPGRADES AND REPLACEMENT COSTS MAY BE APPLIED AGAINST DEDUCTIBLE.
CA	CONTINUOUS CHANGES.
CO	1) PROGRAM TRANSFERRED FROM DEPT. OF HEALTH & ENVIRONMENT TO DEPT. OF LABOR & EMPLOYMENT. 2) ENVIRONMENTAL SURCHARGE FEE STRUCTURE REVISED TO: FUND BALANCE SURCHARGE (PER SIX TANK LOAD) > \$30 M - 0 \$20-\$30 M - \$25 \$5-\$20 M - \$50 < \$5 M - \$100
CT	
DE	
FL	RECENT STATUTORY AMENDMENTS - END REIMBURSEMENT. ALL NEW WORK IS PREAPPROVED IN PRIORITY ORDER WITHIN BUDGET AND STATE CONTRACTS DIRECTLY WITH QUALIFIED CONTRACTOR DESIGNATED BY OWNER. ALSO, NEW AMNESTY PROGRAM FOR CONTAMINATED SITES NOT ALREADY COVERED BY FUND WITH \$300,000 CAP AND 25% COST SHARE.
GA	
IA	NONE.
ID	SUPREME COURT FOUND FUNDING MECHANISM UNCONSTITUTIONAL.
IL	
IN	CHANGES TO ALLOW PERCENTAGE PAYMENT FOR LESS THAN 100% TANK FEE PAYMENT COMPLIANCE. NO FEE PAYMENT REQUIREMENT FOR NEW OWNERS OF TANKS.
KS	
KY	

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LA	<p>LEGISLATION WAS REVISED WHICH IMPACTS EVERY UST OWNER, MOTOR FUEL BULK OPERATOR, AND RESPONSE ACTION CONTRACTOR (RAC) TO SOME DEGREE. A SUMMARY OF THE CHANGES FOLLOWS: 1) OWNERS OF USTs WILL NOW BE REQUIRED TO PAY AN ANNUAL TANK REGISTRATION FEE OF \$45/TANK. IF THE FEE IS NOT RECEIVED BY DEO BY THE DUE DATE SPECIFIED ON THE INVOICE, THE REGISTRATION ON FILE WITH DEO WILL BECOME INVALID. SHOULD A LEAK OCCUR AT A UST SITE FOR WHICH THE REGISTRATION IS INVALID, THE CLEANUP OF THE UST SITE WILL NOT BE COVERED UNDER THE TRUST FUND. IN ADDITION, BEGINNING JANUARY 1, 1996, AN OWNER WHOSE TANK REGISTRATION IS INVALIDATED CANNOT LEGALLY RECEIVE FUEL. 2) THE REVISED LAW REQUIRES THAT DEO DIRECTLY REIMBURSE CONTRACTORS FOR ANY ASSESSMENT OR REMEDIATION WORK THAT IS CONTRACTED FOR ON OR AFTER AUGUST 1, 1995. THE REVISED LAW ALSO STATES THAT AN UST OWNER WHO IS BOTH AN ELIGIBLE PARTICIPANT IN THE TRUST FUND AND A RESPONSE ACTION CONTRACTOR CANNOT BE REIMBURSED FOR WORK PERFORMED AT HIS/HER OWN SITE. ANY WORK PERFORMED BY A RESPONSE ACTION CONTRACTOR WHO IS KNOWN TO HAVE PERFORMED ACTIONS WHICH CONTRIBUTED TO OR RESULTED IN A RELEASE IS NOT ELIGIBLE FOR REIMBURSEMENT UNDER THE TRUST FUND. THE ONLY EXCEPTION TO THESE TWO CIRCUMSTANCES WHERE REIMBURSEMENT IS ALLOWED IS EMERGENCY RESPONSE WORK PERFORMED DURING THE FIRST 72 HOURS FOLLOWING A RELEASE. 3) EFFECTIVE JUNE 16, 1995, THE MOTOR FUEL DELIVERY FEE INCREASED FROM \$.003/GALLON TO \$.008/GALLON. ALSO EFFECTIVE JUNE 16, 1995, THE PROCESSING FEE THAT THE BULK OPERATORS RECEIVE FOR COLLECTION AND REMITTING THE MOTOR FUEL DELIVERY FEE DECREASED FROM 3% TO 1%. 4) BEGINNING JUNE 16, 1995, AND CONTINUING THROUGH DECEMBER 31, 1996, THE DEDUCTIBLE TO BE PAID BY OWNERS FOR LEAKS OCCURRING DURING THIS TIME PERIOD WILL BE AS FOLLOWS: \$5,000 PER OCCURRENCE FOR CLEANUPS; AND \$5,000 PER OCCURRENCE FOR THIRD-PARTY JUDGMENTS. 5) THE REVISED LAW STATES THAT MONIES FROM THE TRUST FUND MAY BE USED TO REMEDIATE SITES TO THE EXTENT NECESSARY TO RETURN THE SITE TO USE AND OCCUPANCY IN EFFECT AT THE TIME THE RELEASE OCCURRED. THIS MEANS THAT IF AN OWNER CHOOSES TO CONVERT AN OLD, CONTAMINATED SERVICE STATION SITE TO A RESTAURANT, THE TRUST FUND WILL NOT PAY FOR CLEANUP OF THE SITE TO LEVELS LOWER THAN THOSE DETERMINED ACCEPTABLE BY DEO. 6) BEGINNING JUNE 16, 1995, RACS CAN ONLY SUBCONTRACT UST WORK WHICH MEETS THE DEFINITION OF SPECIALIZED SERVICES AND CAN CONTRACT OUT NO MORE THAN 40% OF ALL RESPONSE ACTIONS (BASED ON COSTS) RELATING TO A PARTICULAR UST SITE. SPECIALIZED SERVICES ARE ACTIVITIES SUCH AS THE PREPARATION OF EXCAVATIONS, LANDFILL AND TRANSPORTATION CHARGES, INSTALLING MONITORING WELLS, CONDUCTING BORINGS, HEAVY EQUIPMENT WORK, SURVEYING AND PLUMBING. 7) THE REVISED LAW ALLOWS FOR THE PURCHASE OF EQUIPMENT WHEN APPROVED BY DEO.</p>
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MD	DEDUCTIBLES WERE CUT BY 50% (EFFECTIVE 7/1/96). ADDITIONAL MONIES WERE MADE AVAILABLE TO FUND.
ME	CHANGED TO NO-FAULT INSURANCE WITH A SLIDING SCALE DEDUCTIBLE. PREVIOUSLY DENIED APPLICANTS CAN RE-APPLY PURSUANT TO NEW DEDUCTIBLE. 90 DAY FILING TIME FOR CLAIMS INCREASED TO 130 DAYS.
MI	INSOLVENCY DECLARED APRIL 3, 1995 FOR FINAL DATE OF PROGRAM BEING JUNE 29, 1995. JANUARY 1996, AMENDMENTS OFFICIALLY DECLARED END DATE JUNE 29, 1995 AND EXTENDED REVENUE COLLECTION PERIOD TO ALLOW FUNDS TO PAY OFF EXISTING INVOICES. MANDATED TWO-PARTY CHECKS TO BE ISSUED TO THE QUALIFIED CONSULTANT AND THE OWNER/OPERATOR. RAISED THE EMERGENCY FUND FROM 1 MILLION TO 3 MILLION. AMENDED STATUTE TO ALLOW SINGLE PARTY CHECKS IF CONSULTANT HAD BEEN PAID IN FULL; CLARIFIED STATUTE TO ALLOW THE STATE THE ABILITY TO FINANCE ON ADDITIONAL CREDIT TO PAY OFF EXISTING INVOICES. JUNE 1995, RISK-BASED CORRECTIVE ACTION PROCESS WAS ADOPTED IN STATUTE ALONG WITH A 10 RISK FACTOR. MARCH 1996, LIABILITY STATUTE CHANGED TO A CAUSATION STANDARD. IF A SITE OF CONTAMINATION IS FROM A UJST AND THE TANK IS REMOVED PRIOR TO THE PURCHASE, THE NEW OWNER IS NOT LIABLE. ALL PROPERTY TRANSACTIONS WHERE CONTAMINATION EXISTS AND THE PURCHASER IS SEEKING AN EXEMPTION FROM LIABILITY REQUIRE A BASELINE ENVIRONMENTAL ASSESSMENT (BEA). AS PART OF THE BEA PROCESS, THE PERSON MUST TIGHTNESS TEST THEIR TANKS IF HE/SHE PLANS TO CONTINUE THEIR USE. THIS ESTABLISHES THE FACT THAT THE TANKS ARE NOT LEAKING AT THE TIME OF ACQUIRING OWNERSHIP AND IS NECESSARY SINCE WE ARE GRANTING AN EXEMPTION FROM LIABILITY. THE TANKS MUST ALSO MEET STANDARDS FOR TANKS UNDER THE STATUTE. IF THE PERSON IS NOT GOING TO USE THE TANKS, THE TANKS MUST BE TOTALLY EMPTIED OF PRODUCT WITHIN 30 DAYS OF ACQUIRING OWNERSHIP TO MAINTAIN THEIR EXEMPTION. THE TANKS MUST BE REMOVED WITHIN 6 MONTHS TO BE IN COMPLIANCE WITH THE STATUTE. IF THEY AREN'T, THEY STILL MAINTAIN THEIR EXEMPTION BUT WE ENFORCE NON-COMPLIANCE. IF THE PERSON DOES NOT EMPTY THE TANKS, THEY ARE NOT PERFORMING DUE DILIGENCE.
MN	REIMBURSEMENT PROCESS AMENDED TO ALLOW EARLIER ACCESS TO THE FUND; PERFORMANCE ADJUSTS WILL BE DONE; MORE ENFORCEMENT AUTHORITY WAS GIVEN TO ALLOW ACTIONS TO BE TAKEN AGAINST CONTRACTORS/CONSULTANTS; 100% REIMBURSEMENT FOR CERTAIN OWNERS WHO HAVE CLEANUP COSTS OVER \$250,000.
MO	PROGRAM EXPANDED IN 1995 TO INCLUDE ABANDONED USTs. LEGISLATION ENACTED PENDING GOVERNOR'S SIGNATURE IN MAY 1996 TO INCLUDE ASTs; CHANGES FUND TO 'PETROLEUM STORAGE TANK INSURANCE FUND'. FIDUCIARY RESPONSIBILITY FOR FUNDS SHIFTS TO A 'BOARD OF TRUSTEES' CONSISTING OF GOVERNMENT AGENCIES, INDUSTRY REPRESENTATIVES AND PUBLIC.
MS	50% PENALTY ON LATE PAYMENT OF TANK FEES.
MT	1. PETROLEUM RELEASES FROM FARM AND RESIDENTIAL AND HEATING OIL TANKS UNDER 1,100 GALLONS DISCOVERED AFTER 1/23/95 ARE NOT ELIGIBLE, UNLESS THE TANK WAS INSTALLED ON OR AFTER 4/27/95. (SENATE BILL 386). 2. SENATE BILL 71 REQUIRES APPLICATIONS FOR REIMBURSEMENT TO BE FILED WITHIN 2 YEARS OF CORRECTIVE ACTION WORK PERFORMED. WORK OLDER THAN 2 YEARS OLD IS NOT ELIGIBLE FOR REIMBURSEMENT.
NC	1) <u>PETROLEUM UST CLEANUPS - EFFECTIVE 7/5/95</u> : RULES WERE ADOPTED TO IMPLEMENT A RISK-BASED APPROACH TO ASSESSMENT AND CLEANUP OF DISCHARGES AND RELEASES FROM PETROLEUM USTs. ALSO AUTHORIZES THE STATE TO DETERMINE FOR EACH SITE, CLEANUP STANDARDS THAT ARE BASED ON ACCEPTABLE LEVELS OF RISK TO HUMAN HEALTH AND THE ENVIRONMENT. IF THE STATE CONCLUDES UNDER THIS RISK-BASED APPROACH THAT NO CLEANUP OR NO FURTHER CLEANUP IS REQUIRED AT A SPECIFIC SITE, FURTHER WORK AT THAT SITE WILL NOT BE REIMBURSABLE FROM THE FUND. ALSO DIRECTS THE STATE TO IMPLEMENT THIS RISK-BASED APPROACH TO THE MAXIMUM EXTENT POSSIBLE UNDER EXISTING RULES. 2) <u>OPERATING PERMIT PROGRAM - EFFECTIVE 7/1/96</u> : A PERMIT PROGRAM WAS ESTABLISHED WHEREBY OWNERS OR OPERATORS OF COMMERCIAL USTs WILL BE REQUIRED TO OBTAIN AN ANNUAL OPERATING PERMIT FOR EACH FACILITY THAT CONTAINS USTs. CRITERIA FOR OBTAINING A PERMIT INCLUDE REGISTRATION AND PAYMENT OF ANNUAL OPERATING FEES AS WELL AS COMPLIANCE WITH APPLICABLE LEAK DETECTION AND STAGE 1 VAPOR CONTROL REQUIREMENTS. AFTER JUNE 30, 1996 COMMERCIAL USTs AT FACILITIES THAT ARE NOT PERMITTED MAY NOT RECEIVE PRODUCT. 3) <u>ENFORCEMENT - EFFECTIVE 1/1/96</u> : THESE SECTIONS PROVIDE THE TRADITIONAL REMEDIES FOR VIOLATIONS: CIVIL PENALTIES, INJUNCTIONS AND CRIMINAL PENALTIES. THESE ENFORCEMENT MECHANISMS HAVE BEEN PATTERNED AFTER SIMILAR PROVISIONS IN CHAPTER 143 AND ARE CONSISTENT WITH THOSE PROVISIONS; THIS AMENDMENT APPLIES TO OFFENSES OCCURRING OR CONTINUING ON OR AFTER 1/1/96. 4) <u>COMMERCIAL FUND COVERAGE - EFFECTIVE 7/5/95; MAXIMUM COVERAGE</u> : THE MAXIMUM AGGREGATE AMOUNT THAT MAY BE PAID FROM THE COMMERCIAL FUND FOR EACH OCCURRENCE HAS BEEN RAISED FROM \$1,000,000 TO \$1,500,000. OWNERS, OPERATORS AND LANDOWNERS WILL BE REQUIRED TO PAY FOR 20% OF COSTS FOR WHICH REIMBURSEMENT IS REQUESTED. THIS AMENDMENT APPLIES TO ANY RELEASE DISCOVERED OR REPORTED ON OR AFTER 8/30/88. 120 DAY RESTRICTION: THE RESTRICTION TO COMMERCIAL FUND COVERAGE FOR USTs THAT WERE REMOVED FROM THE GROUND MORE THAN 120 DAYS PRIOR TO THE DISCOVERY OF A RELEASE OR DISCHARGE HAS BEEN ELIMINATED. THIS AMENDMENT WILL APPLY RETROACTIVELY.

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ND	
NE	
NH	FEE INCREASED FROM \$0.006 PER GALLON TO \$0.014.
NM	
NV	
NY	
OH	NONE.
OK	PROPOSED CHANGES TO CHANGE FROM TIME AND MATERIALS REVIEW TO PERFORMANCE BASED CONTRACTS.
PA	
RI	
SC	THE NEW LAW DOES NOT ALLOW THE PRCF TO PAY FOR ANT EXPENSES WHICH MAY EXCEED THE MINIMUM RBCA REQUIREMENTS.
SD	THE STATE LEGISLATURE MANDATED THE IMPLEMENTATION OF RBCA IN 1995. THE NEW LAW DOES NOT ALLOW THE PRCF TO PAY FOR ANT EXPENSES WHICH MAY EXCEED THE MINIMUM RBCA REQUIREMENTS.
TN	DEDUCTIBLES HAVE CHANGED FROM UP-FRONT \$10,000 OR \$20,000 TO A PERCENTAGE OF 10% OR 20% UP TO A MAXIMUM OF \$10,000 OR \$20,000.
TX	NO ADDITIONAL CHANGES.
UT	\$10,000 DEDUCTIBLE MADE PERMANENT. \$2,000,000 APPROPRIATED FROM FUND FOR THE LOW INTEREST LOAN FUND.
VA	ADDED LENDER LIABILITY EXEMPTION. ADDED STARTING ELIGIBILITY DATE (RELEASES REPORTED AFTER 1/22/89). ADDED REASONABLE AND NECESSARY QUALIFICATION TO REIMBURSABLE COSTS.
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WA	INTRODUCED A BILL WHICH WOULD HAVE ENACTED A FEE INCREASE. COMMITTEE REVIEWING BILL AGREED IT WAS PRUDENT TO HOLD OFF ON BILL WHILE FUND REMAINS SOLVENT.
WI	THE LEGISLATURE . THROUGH THE HEATING OIL POLLUTION LIABILITY INSURANCE PROGRAM, EXPANDED COVERAGE TO ACTIVE HEATING OIL TANKS. COVERAGE PROVIDED IS \$60,000 PER INCIDENT, PER SITE PER YEAR.
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