

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AK		Fund is no longer active.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 in 2009 which provides for up to \$0.02 /gallon to be collected at withdrawal from bulk. The actual amount is set on an annual basis. The current charge amount is set at \$0.0125/gallon. The coverage amount increased to \$1.1 million.	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		Funds available to pay all submitted corrective action plans and third party claims. / Number of confirmed releases received, sites closed.	No
AZ	None	Claim prioritization began March 31, 2010. Claim submission to the fund was sunset in 2004. The fund "phase out" started with the deadline for release reporting. Only releases reported before July 1, 2006 were eligible for coverage. The next stage of the phase out required preapproval claims to be received no later than June 30, 2009. No claims for payment are eligible after June 30, 2010. / Success is measured by the timely review of claims.	The Arizona fund had a sunset for release eligibility of June 30, 2006. Releases discovered and reported after this date were not eligible to submit claims for coverage to the Arizona fund.

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CA	<p>AB 1188 was passed on November 4, 2009 by the Governor, the bill expands the eligibility of the School District Account to add priority class B and C school district claims. Payments will be made in priority class order by date of receipt of the Reimbursement Request package and the Fund will process any RR's in-house for eligible school district claims. Storage fees increased for two years to \$0.020 (1/1/10-12/31/11), reverts back to \$0.014 on January 1, 2010. Carrying costs are an interest expense incurred by a claimant to acquire money to pay costs approved for reimbursement by the Board, but payment is delayed due to lack of funds. Carry costs have been implemented and are approved if costs were incurred by the claimant after 11/7/08 but before 6/30/10. Carrying costs actually incurred by the claimant from the date costs are approved for payment until the date State Controller's Office issues the check. Carry costs cannot exceed 7% APR, must be at least \$100, and cannot exceed 9% of the approved costs. Carrying costs applies only to A,B, and C priority claimants.</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. /</p> <p>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>The sunset date for the Colorado Petroleum Storage Tank Fund was extended from 2012 to 2018. The A&B Operator training program is in place and functioning with 8 training providers approved to provide classroom training and on-line webinar training, in addition to ICC online testing. Currently there are approximately 2,400 individuals that have successfully completed A&B Operator training in Colorado. In addition, Oil Inspection staff and Fund Section staff are certified A&B Operators, and Remediation Section staff are scheduled to complete the training this fall. Also, OPS management and staff are working with a stakeholder group to revise our AST regulations.</p>	<p>The Colorado Petroleum Storage Tank Fund is solvent with a fund balance of \$1.4 million. This amount of fund balance dictates the Environmental Response Surcharge (the source of 98% of our revenue) be \$100/tanker.</p> <p>Success is measured based on the number and amount of claims paid: for fiscal year 2010 1,693 claims were paid totaling \$24 million, and for the life of the fund 20,528 claims have been paid totaling \$389 million. In addition, payments are being made well within the statutory requirement of 90 days (average of 35 days).</p>	<p>No. Colorado is using the ARRA money to investigate and remediate stagnant LUST Trust sites.</p>
CT	<p>2010 Legislation reduced funding for Fiscal Years 2010 and 2011 from annual amount of \$10,000,000 to \$2.1 million</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>	<p>None to date.</p>

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DE		Fund is currently solvent. / Completed site remediation activity resulting in closed claims	
FL	There were two significant legislative changes that were subsequently <u>vetoed by the Governor and did not become law</u> : The first was to require active priority cleanup sites to enter or switch to long term natural attenuation monitoring (NAM) if the contaminants were contained within the real property boundary, the plume was stable or shrinking and the COC concentrations were at or below the default NAM concentrations in rule. The second was to provide up to \$10 M in funding for and require the Department to issue a (qualified) No Further Action Order for lowest priority sites that perform limited assessment to demonstrate that the contaminant plume is contained within the real property boundary and stable or shrinking, and that do not have soil contamination in the upper two feet.	The fund is sound, though revenues and cleanup appropriations have been significantly reduced over the last few years. Success is measured by the number of sites cleaned 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).	N/A - Though Florida began cleanup at a number of sites using ARRA funds, the Legislature opted to cease such cleanups return all unused ARRA funds (approximatley \$9 M)
GA		Fund is currently 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.	Not Currently.
IA	Legislature diverted over \$26 million from the Fund for the next fiscal year making Fund a cashflow entity as opposed to reserving entity. Also made changes allowing payment of costs beyond monitor only at Board discretion, placing strict time frames on review of reports and strengthening NFA reliance by the public.	Fund is currently solvent./ Closure of LUST sites. There are ~1,224 (972 eligible claims) LUST sites currently open in the state. About 350 of the LUST sites have active tanks. Majority are just LUST sites.	None
ID	None	Fund is solvent / Completed site remediation activity resulting in closed claims	No

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IL	The Illinois General Assembly created a task force to review Illinois' tank program and funding issues.	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.	No
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 FY11 and FY12 was passed that provides \$25 million for claim payments for each year from bond sale proceeds. The budget requires an additional transfer from the PSTEAF to the General Fund of \$48 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.	Yes, slight increase.

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LA	None	The Louisiana Trust Fund continues to be solvent. We consider our fund successful as assessment and remediation of all sites are still being accomplished, claims are processed in a timely manner. Fund balance determined by new GASB 49 requirements since July 1, 2007.	No increase in claims has been detected.
MA	New regulations promulgated in FY2010: 1. the submittal deadline for the Application for Eligibility was increased from 6 months to one year from when the release was reported; 2. To reduce claim administrative costs, the minimum claim value that can be submitted was increased from \$5,000 to \$7,500 (note - does not apply to the final claim submission). Budgetary language for FY11 requires that claim reimbursement payments be based on the number of facilities owned by the claimant (i.e. paying the claimant with the fewest facilities first)	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. The UST Program budget for claim reimbursements has generally been sufficient to meet claim obligations. However, for FY2010, no supplemental budget was approved and the year end shortfall is \$10.9 million. There is no formal method for measuring "success".	None
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

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ME	<p>2009 Amended registration fees to reduce processing costs. 2009 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.</p> <p>Requires operator training and authorize use of red tag.</p> <p>Extended fund sunset date to 12/31/2015</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>	<p>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</p>
MI	<p>No Legislative Activity</p>	<p>Temporary reimbursement program established in 2005 ended in December 2009.</p>	<p>Not applicable. The fund stopped accepting claims in August of 2007.</p>
MN	<p>With one exception, costs to address releases from mobile tanks were made ineligible for reimbursement. As part of the state budget-balancing process, a total of \$8,001,000 will be transferred from the Petrofund to the General Fund in FY10 and FY11.</p>	<p>Minnesota's state fund continues to be financially sound. /</p> <p>Fund solvency & claim processing time.</p>	<p>No.</p>
MO	<p>none</p>	<p>Very good. Cash reserves are sufficient to complete all ongoing cleanups and pay for new claims as they are filed. Fewer old releases are being found; few new releases are occurring at insured facilities. Enjoy broad support from petroleum industry and public officials. /</p> <p>Tank o/o's receiving timely, professional services; cleanups proceeding expeditiously; efficient and cost-effective expenditures from trust fund.</p>	<p>Not from "sites newly discovered," but we expect to have 20-30 new claims from the owners of properties where old USTs were known to still be buried, the USTs were removed using ARRA funds, and additional cleanup is now needed, or where a Phase II Assessment was done at a known old tank site and additional cleanup is now needed.</p>

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MS	None	Fee collection just reinstated after being suspended for approximately 10 months due to \$10 million unobligated ceiling amount being reached.	\$0
MT	None	Board staff continues to obligated funds to cleanup releases which pose the greatest threat to human health and the environment. As of June 2009, the fund has \$4.29 million in obligated corrective action plans and \$3.31 million in non-obligated plans. Fund balance & claim processing time.	No
NC	Legislation pending that will require operator training to comply with EPAAct.	Considering all obligations of trust fund monies (administration, state-lead contracted work, etc) Commercial fund is in the black by \$5.7 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	LB832 - eliminated the provision for new facilities to obtain private insurance after July 1, 2009.	RBCA Tier 1 and Tier 2 investigation program working well. PFP program has 29 contracts at orphan tank sites with 9 completed successfully, 5 contracts terminated, and 15 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 extend a \$.0025 per gallon increase in our fuel oil fund import fee passed. The fee will be \$.0125 per gallon for another two years, and the deductible was increased from \$100 to \$500. A bill to eliminate the sunset date on our motor oil fund passed.	Motor fuel fund(s) is active, we are re-prioritizing AST/UST cleanups to balance expenditure demand with revenues. Fuel oil fund deficit improved with extension of fee increase. Measurement is based on # of claims processed and cleanups completed	A few sites/claims
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 eligibility 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 management 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.	Yes, however, it was minimal. As of 6/30/2010, a total of 28 claims have been received and processed.

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NV	Spring 2010 Senate Bill 5 revised Nevada Administrative Code to remove ceiling on Fund. Money in excess of former ceiling at the end of the fiscal year is transferred to the State Highway Fund	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. No change in the Fund as the State's financial responsibility mechanism is anticipated. / The Board issued revenue bonds for the second time in 1998 in the amount of \$35 million. These bonds have a full maturity date of August 15, 2013. However, the Board voted to retire the June 30, 2010 outstanding debt of approximately \$22 million early on August 15, 2010. / 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	The Legislature passed an Environmental Covenant Act modeled after the national legislation	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.	Any funds provided by the Act were used by PaDEP for remediation on non-Fund eligible sites
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	In January 2009, Bill H. 3270 was introduced through industry-lead efforts to address SUPERB solvency by amending 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. Bill H.3270 was signed by the Governor and has an effective date of May 19, 2010. Bill H. 3270 increases annual tank fees \$100 each year over four years, ultimately reaching \$500 per tank, and maintains the fee 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 back to \$100 per tank the following January. The fee increase will be effective January 1, 2012. SCDHEC will not be allowed to use any of the additional tank fee revenue for administration of the UST Program.	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.	No
SD	Legislation was passed transferring from the Fund \$2 Million to the South Dakota Science & Technology Authority, and up to \$1 million to the State General Fund during fiscal year 2011.	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	<p>The General Assembly passed and Governor Bredesen signed into law amendments to the Tennessee UST Act that:</p> <ol style="list-style-type: none"> 1. Provides authority to order the permanent closure of tanks that have been red tagged due to operational violation for six (6) months or fee violations for more than one (1) fee cycle. If the tank owner allows the order to go final, the Commissioner is authorized to use the TN UST Fund to permanently close the tanks and seek cost recovery plus a 150% penalty. 2. Makes it an unlawful action to submit any false information to the UST Division, the amendment mirrors federal false information laws, and UST is the only TDEC Division with this provision in its statute. 3. Expands the definition of responsible party to include: <ol style="list-style-type: none"> a. Any person whose intentional actions directly cause the release of petroleum at a petroleum site; and b. Any person other than an employee, officer, director, principal, or shareholder of the owner or operator of the underground storage tank system or of the owner of the petroleum site, whose negligent actions directly cause the release of petroleum at a petroleum site. 4. Enhance cost recovery authority whenever the commissioner expends money for the investigation, identification, containment or cleanup of a particular site. <p>The new public chapter can be found in full at http://state.tn.us/sos/acts/106/pub/pc0903.pdf</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>	NO

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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	<p>On March 25, 2010, Governor Herbert signed H.B. 120 into law. H.B. 120 will increase the Petroleum Storage Tank Trust Fund (PST Fund) coverage limit from \$1,000,000 to \$2,000,000 (minus a \$10,000 deductible) for releases from PST Fund-covered underground or aboveground petroleum storage tanks (USTs or ASTs) that are reported on or after May 11, 2010. There will be no increase in the gasoline surcharge, AST/UST fees, or deductible for this additional PST Fund coverage.</p> <p>Another provision of H.B. 120 is that it allows a third party, who is injured or damaged by a PST Fund-covered release that occurs on or after May 11, 2010, to be reimbursed by the PST Fund for hiring their own Utah-Certified UST Consultant to review investigation reports or corrective action plans developed by the Responsible Party's consultant.</p>	Utah's Petroleum Storage Tank Trust Fund (PST Fund) is in sound financial condition based on an October 5, 2009 Actuarial Report prepared by Deloitte Consulting. The report stated that the PST Fund cash balance will remain positive until beyond 2019. The Utah DEQ has cleaned up and closed 4,312 LUST sites since the inception of the program in 1989. We still have 463 open LUST sites: 227 are on the PST Fund, 233 are RP lead or LUST Trust, and 3 are being overseen by the UST Compliance Section.	None
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 to 136 days. Overall success is measured through: Number of cleanups completed; Average cleanup cost; Claims processing time; Overall reasonableness of cost approved.	None

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VT	Fee increase passed for heating oil from \$0.005/gallon to \$0.01/gallon. Also raised the cleanup coverage limit from \$1 million per site per occurrence to \$1,250,000. Third party coverage remains at \$1 million per site per occurrence.	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	Legislation was recently proposed to merge the agency with the Department of Ecology. The legislation was not successful.	Tax reinstated on July 1, 2009 and remained on until March 30, 2010. It generated approximately \$48.1 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.	N/A
WV		Fund is no longer active.	
WY	Beginning rule changes to Chapter 17; likely will take 2 years for full promulgation.	Active and solvent	Dig/haul completed at 2 sites using ARRA funds. No other work will be completed using ARRA funds.