

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AK	UST closure and upgrade grants repealed 7/1/02; UST cleanup grants repealed 7/1/2004	UST grant program terminated 6/30/04; converted completely to an UST cleanup loan program	Site closure and site risk reduction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 6/1/2004 thru 5/31/2005	The Trust Fund Management Board evaluated the need to raise the Trust Fund charge from \$0.005 per gallon to \$0.01 per gallon. Regulations went into effect October 1, 2004 which increased the fund collections to \$0.01 per gallon at first withdrawal from bulk.	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	Increased motor fuels environmental assurance fee from 2/10ths to a maximum of 3/10ths of one cent per gallon at the wholesale level, if approved by Commission. Annual tank registration fee increased from \$50 to \$75. DEQ now has right of subrogation to insurance policies held by owner or operator at time of occurrence. Adds letters of credit and cash bonds as forms of financial assurance for licensed installers.	Funds available to pay all submitted corrective action plans and third party claims	No formal method
AZ			
CA			

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<p>CO</p> <p>1) Legislation passed in April 2005 to increase the environmental surcharge and change the formula by which the surcharge is calculated. The legislation also increases 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 legislation makes the Fund an enterprise fund and thus exempt from certain taxation limits in Colorado. The legislation also expands from "property owners" to "current and former property owners" as persons who may have recourse to the Fund. 2) Additional legislation passed in April 2005 that provides access to the Fund to petroleum distribution facilities located on Fee Lands (lands owned by American Indian Tribes located primarily in SW Colorado) in exchange for OPS oversight of their operational compliance, environmental assessments and cleanups. 3) Legislation was 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>Maximum surcharge of \$75/tanker in effect. Due to Fund balance below \$3M surcharge will increase to \$100/tanker on July 1, 2005. Lower Fund balance had slowed some payments for a short time, but not longer than statutory requirement of 90 days.</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>Proposed Legislation -- To 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, to allow the Commissioner of Environmental Protection to make payments to assignees from the underground storage tank petroleum clean-up account, to prohibit payment or reimbursement from such account for diminution in property value, to revise the dollar amounts for which a party must bear in response to a release or suspected release, to establish a maximum payment or reimbursement from the account to third parties, to establish a maximum payment or reimbursement from the account for attorneys' fees, to establish a "pay for performance sub-account" within the account, to establish deadlines for submissions of multiple applications relating to a subject release or suspected release, to add provisions regarding payment or reimbursement to a party from a source other than the account, to 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, to 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, to allow an environmental professional's fees to be included in an application or request for payment or reimbursement from the account, to 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, to require an applicant to submit audits regarding current compliance of existing underground storage tank systems, to 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, to define a new entity that is eligible for payment or reimbursement from the account, to limit and reduce the number of subsequent applications for payment or reimbursement from the account, to 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, to 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	CS for SB 1318 (pending signature by governor) includes: 1) Requirement for the DEP to uniformly encumber appropriated cleanup funds throughout the State fiscal year with exceptions for imminent threats and emergencies. 2) Authorization for preapproved funding out of priority order for limited source removal projects associated with sites that will become inaccessible due to secondary containment tank upgrades and DOT road projects, with \$11 M combined annual cap. 3) Extends the Inland Protection Financing Corporation through 2025 and authorizes issuance of obligations up to \$100 M to pay for large scale cleanups such as ports, airports, and terminal facilities, with legislative approval.	The Inland Protection Trust Fund is currently collecting more revenue than any time in past. Proposed annual budget for direct cleanup for FY 05/06 is largest yet at \$170 M.	Number of Site Cleanups Completed
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.
IA	Deadline to complete work at AST upgrade or removal claim site extended from 2/18/05 to 12/31/05. Claim filing deadline not changed. Additionally Governor sought and obtained \$5 million from UST Fund for new water quality initiative.	Fund is currently solvent.	Closure of LUST sites. There are 1,840 (~1,600 eligible claims) LUST sites currently open in the state. 608 of the LUST sites have active tanks. Majority are just LUST sites.
ID			
IL	Currently, no legislative changes.	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.	Formal Measure: mandated time frames for technical/budget approvals and for complete claims approval. Informal Measure: The number of sites remediated.
IN	The Indiana Legislature has passed legislation increasing the funds revenue to approximately \$51 million per year. This becomes effective July 1, 2005.	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.	The committee is still out on this.

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KS	None	Following directives from last year's legislative session, 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	In FY 03 \$74.1 million was transferred from KY's fund to the general fund. In FY 04 \$27.1 million was transferred to the general fund.	By Executive Order the Fund was abolished and put under Division of Waste Management. In the state of Kentucky a budget was not passed by the legislators, therefore, our budget for the next biennium is undecided.	
LA	Legislation passed in June 2005 that changes the composition of Trust Fund Advisory Board to include two additional La. Oil Marketers Association representatives, eliminates substantial compliance as condition for eligibility, and provides for additional deductibles for sites that are non-compliant with the regulations and the non-compliance is found to have caused or contributed to a release.	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			
MD	None in 2004; However, legislation passed this year by the General Assembly & signed by the Governor becomes effective July 1, 2005 as follows: 1) Fee increases 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.	a) Reorg last half 2004 shifted emphasis and responsibility of processing applications to financial staff instead of technical staff. b) As of July 2004 we had approx. 55 commercial applications and 85 residential applications to be reviewed. These numbers significantly reduced since reorg. c) Reallocation to the Fund of \$\$ unused from old closed sites is almost completed.	Reduction of application backlog while insuring the Fund balance remains "in-the-black"

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ME	Law requiring AST owners storing motor fuels to meet Federal SPCC requirements was extended with no expiration date. 3rd Party Damage Claim law changed to allow the dismissal of a claim for untimely filing or failure to provide information necessary to process the claim.		Completed site remediations, protection of human health and the environment.
MI	Legislation was enacted in October 2004 to extend the collection of 7/8 cent fee on refined petroleum products through 2010, and use the revenues to fund environmental and consumer protection programs necessary to protect public health, safety, or welfare or the environment due to the sale, use or release of refined petroleum products. This fee was initiated in 1989 for a LUST reimbursement program (MUSTFA) that ended in insolvency in 1995. The fee revenues have been used since 1995 to pay off bond debt from that MUSTFA program. The October 2004 legislation created a new fund, the Refined Petroleum Fund (RPF), to consist of remaining MUSTFA revenues and future fee revenues. For FY 2005, the legislature appropriated approximately 2/3 of the expected annual fee revenue for debt service (including LUST related debt) and non-LUST programs related to refined petroleum, and is expected to continue similar appropriations in the future. For the remaining funds, the Legislation created an Advisory Council to make recommendations to the legislature how those funds should be expended.	New fund created October 2004, but as of May 2005, further legislation is needed to determine how the fund will be used. Anticipated revenues available for addressing backlog of LUST sites are limited.	To be determined upon enactment of further legislation.
MN	Proposed Sunset Date Extension to 6/30/2012 (awaiting Governor's signature)	Healthy. The fund enjoys support from the petroleum industry, as illustrated by their work to extend the program to 2012. The fund continues to be financially sound.	Fund balance & claim processing time.
MO	None	Healthy. RBCA implemented by regulatory agency this year; has allowed closure of old claims. Fewer old releases being found; the majority are behind us. Growing cash balance.	Tank o/o's receiving timely, professional services; cleanups proceeding expeditiously; efficient and cost-effective expenditures from trust fund.

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MS	Legislature has taken \$4,361,717.45 since July 2003	Declining cash balance for the last three years	Processing reimbursements in 30 days or less.
MT	The board shall conduct an analysis of the short-term and long-term viability of the fund and report its finding to the director of the department and the legislative auditor by July 1 prior to each regular legislative session.		Fund balance & claim processing time.
NC	New statutes directed the DENR to only preapprove assessment and remediation work if the work could be reimbursed within 90 days of review of the claim; increased for one year the amount of revenue an additional \$32 million into the commercial and noncommercial funds.	Commercial fund is short \$8.1 million, Noncommercial fund is in the black by about .6 million.	Number of complaints received, sites closed.
ND		Solvent	
NE	LB298 modified our definition of petroleum to restore fund coverage to petroleum products excluded by last years definition change. This bill also included the Uniform Environmental Covenants Act. Also, pending legislation, LB40, includes transferring \$300,000 from our Fund to the City of Omaha in September 2005 for residential lead paint removal.	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			

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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, 2005. New fees are reflected above.	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			
PA	December 31, 2005 marks the end of the 5 year review cycle of the Fund under the Sunset provision	Fund is viable and paying claims as they are submitted	

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RI	House Bill # 6323 changes makeup of Board members giving the RI Governor more appointments, all future appointments would be subject to Senate advice and consent. House Bill # 5832 would exempt tanks located in marinas from the fund registration fee, a fee has never been collected to date. House Bill #5811 seeks to ban MTBE by 2006.	Foresee continued solvency, strengthening relationships with DEM and stakeholders	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	<p>UST legislation has been passed by the TN legislature, but as of May 24, 2005, is awaiting action by the Governor. The provisions that impact the TN Fund are an increase in the annual fee paid by tank owners from \$125 per tank to \$250 per compartment. Also, the legislation provides for changes to the fund deductibles for both corrective action and third party claims. The corrective action deductible is currently a percentage up to a maximum: 10% up to \$10,000 for owners of 1 - 12 tanks, 20% up to \$20,000 for owners of 13 - 999 tanks, and a flat \$50,000 for owners of 1,000 or more tanks. If the new legislation becomes law, the deductible for corrective action for all tank owners will be an up-front \$20,000 per occurrence to be paid before any reimbursement is paid by the fund. The current deductible for third party claims is: an up-front of \$10,000 for owners of 1-12 tanks, an up-front of \$37,500 for owners of 13 - 999 tanks, and \$225,000 for owners of 1000+ tanks. If the new legislation becomes law, the deductible for third party claims will be \$20,000 per occurrence for all tank owners.</p>		
TX			
UT		<p>We are trying to control our decreasing cash balance by controlling costs and prioritizing sites for cleanup based on public health impacts, environmental impacts, and property redevelopment.</p>	<p>The Utah DEQ has cleaned up and closed about 3,838 LUST sites since the inception of the program in 1989. We still have about 552 open LUST sites (total includes 56 suspected release sites) of which 319 are on the PST Trust Fund and 233 are RP lead or LUST Trust.</p>

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VA	None	Virginia continues to make progress with the decreasing of the waiting list for payments. Currently, the wait time is about 6 months down from the 10 months reported in last year's survey. Additionally, claimants who elect the "accelerated payment" option that was introduced two years ago receive most of their money within 1 month. If our monthly income continues to be stable and claim volumes continue to decrease, the delayed payment wait list will be eliminated over time.	Success is measured through: Number of cleanups completed; Average cleanup cost; Claims processing time; Overall "reasonableness" of costs approved; Delayed payment time.
VT	MTBE banned for sale and distribution in State effective January 1, 2007.	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	In 2005, the Washington Legislature approved the transfer of \$7.5 million from PLIA's dedicated account to the state general fund. In a separate action, the legislature also approved the expenditure of up to \$1,000,000 to assist the economic development of underserved rural communities by assisting an owner or operator that has discontinued using an underground petroleum storage tank (up to \$200,000 per site).	Solvent	Availability and affordability of Pollution Liability Insurance
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.

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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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