

Recent Developments and Changes to the UST Cleanup Fund

This fact sheet is to provide information on recent developments of interest to the Underground Storage Tank (UST) Cleanup Fund stakeholders.

General Topics

- The Underground Storage Tank Cleanup Fund (Cleanup Fund) is now able to distribute about \$30 million from unexpended Fiscal Year (FY) 2011-12 site budgets to pay for over-budget costs incurred in FY 2011-12 and additional funding for FY 2013-14 site budgets.
- Revenues coming in higher than anticipated may provide as much as an additional \$40 million to reimburse costs.
- Priority A and B claims are being activated from the Priority List frequently to ensure payment in priority order. School claims of any priority are also being activated.
- Priority C and D claims continue to be activated from the Priority List as needed to meet the required minimum annual reimbursement of 14 to 16 percent.
- Cleanup costs have escalated in recent years; today's open claims are projected to increase to a total of \$750,000 per claim. The average UST cleanup case has been open for 17 years.
- The State Water Board has taken strong measures to close low-threat UST cases and to require regulatory agencies to identify the "Path to Closure Plan" for every open UST case.

Payment Processing Time

- The Cleanup Fund has updated its website and added a page with one-stop shopping on "[Steps to Faster Reimbursement](#)." This page provides all the information relevant to reimbursements in one convenient location that will be regularly updated. This page explains steps that a claimant/consultant can take to minimize reimbursement time for reasonable and necessary costs -- beginning with regular (suggested quarterly) submittal of requests for reimbursement (RRs). Note that, due to staffing limitations, the Cleanup Fund's normal backlog of RRs is 60 days before a staff person can begin substantive review of any given claim.
- In the past two FYs, sites were given budgets as recommended by the 2009 Cleanup Fund audit. Even though expenses were incurred throughout FY 2011-12, more than 75 percent of the reimbursement requests, by dollar amount, were not submitted until the end of September 2012, several months after the fiscal year ended in June. This time frame is up to 15 months after the corrective action costs began to be incurred. So far, FY 2012-13 is on track for similar results as in the previous year, resulting in an uneven workload and creation of an even larger backlog than usual; last year, the backlog took six months to work through. Once a staff person was able to begin substantive review of any given claim, the total processing time was approximately 60 days. ***The Cleanup Fund's receiving 75% of the total dollar amount of the prior year's RRs after the end of the fiscal year creates significant delays in payments.***

- For long-term solutions, the Cleanup Fund has initiated the process to contract with an independent external auditor to examine its payment processing procedures, with the overall goal of minimizing processing time while continuing to deter fraud against the Fund.
- During FY 2013-14, after an expected September contract start for GeoTracker upgrades, the Cleanup Fund will make available electronic submittal of claims in a standardized format, to allow up-front error-checking to improve payment processing times and also reduce potential fraud.

Updates to Documents and Regulations

- By September 20, 2013, the Cleanup Fund will release draft updates to dollar amounts in the Cost Guidelines for stakeholder review and input.
- The Cleanup Fund plans to revise the RR submittal regulations even though the regulations do not prevent submittals of RRs in any amount at any time. The revisions would remove reference to the \$10,000 minimum, clarifying that the Cleanup Fund will continue to accept reimbursement requests in any amount.

Fund Sunset

- The Cleanup Fund continues to accept new claims and will continue to do so up until the Fund's sunset date.
- The Cleanup Fund continues to pay reasonable and necessary costs for eligible claims.
- As other States' UST Cleanup Funds sunset, the States incorporated interim wind-down deadlines to smooth the transition period. California does not yet have any such statutorily-defined deadlines to allow for an orderly transition as its Cleanup Fund sunsets. Examples of these include:
 - Deadlines for claimants/UST owners and operators to switch to other financial responsibility mechanisms for operating USTs;
 - Deadlines to apply for claim eligibility; and
 - Deadlines for claimants to submit final requests for reimbursement.

The Cleanup Fund will create a wind-down plan, for stakeholder input, to inform claimants and other stakeholders of the actions that the Cleanup Fund will take and actions that claimants need to take, for an orderly, thoughtful transition to a post-Cleanup Fund world. This plan should allow the Cleanup Fund to formulate and implement administrative measures, deadlines and milestones.

Fraud, Waste, and Abuse Prevention

- The State Water Board's Office of Enforcement is investigating and prosecuting cases of fraud against the Fund, resulting recently in a criminal plea and jail time for a consultant. The Fund's Fraud, Waste and Abuse pilot project is now permanent due to the many investigations it is undertaking. The Fund continues to adopt measures to prevent and deter further fraud and protect the public's funds. A fact sheet is available at http://www.waterboards.ca.gov/publications_forms/publications/factsheets/docs/fraud_efforts_factsheet.pdf

(This fact sheet was last updated August 23, 2013)