

Utah Petroleum Tank Cleanup Process

Utah Structure: The UST section, Leaking UST section, and Administrative Support section are all within the DEQ Division of Environmental Response and Remediation (DERR).

The UST section of the DERR, is a group of environmental scientists whose task is to oversee the regulated public in issues that concern the operational life of USTs up to proper closing of UST systems. UST staff members perform compliance inspections, issue compliance notices, and serve as expert witnesses at administrative hearings. Outreach classes and seminars are taught throughout the state.

The LUST section of DERR oversees remediation of contamination from USTs. LUST scientists and engineers review and establish clean-up guidelines. When responsible parties are not available or are unable to pay for the remediation of a LUST site, the LUST staff may use LUST-Trust money to define the degree of hazard, initiate abatement actions, and remediate the site. Funds spent will be recovered from responsible parties. Often, responsible parties seek the guidance of the LUST staff to insure clean-up in a timely and economical fashion.

The administrative support section oversees the collection of UST fees and monitors expenditures. Accountants and technicians answer questions concerning billings and distribute funds as appropriate.

The Utah Environmental Assurance Program (hereafter referred to as “Fund”) Participation in Utah’s Fund is not mandatory, owners opt in, they can have private insurance or self-insurance. Utah uses a certified consultant list from which the owner/operator chooses a consultant. Consultants follow department guidance to complete work; and if they participate in the fund, submit cost proposals to the department in accord with the cost guidance issued by the department. The Cost Guidance details personnel classifications, requirements, rates, and responsibilities and is updated every other year. Consultants get two quotes for purchases between \$1-5 k and 3 bids for purchases over \$5 k. Remediation work and the fund is managed w/in the Division of Environmental Response and Remediation at Utah Department of Environmental Quality. The same project manager oversees workplans and budgets. “Inability to pay/orphan” sites go through the state contracting process and are mostly handled in the LUST group.

Eligibility: Tank owners who participate in the fund and have a release submit an eligibility application that is reviewed by the UST Compliance section and the Environmental Assurance Program(EAP)/LUST section to make sure they agree. The UST Compliance Section checks to make sure the applicant is current on their Fund payments and coverage for eligibility. The EAP/LUST review is to determine if the release is fully covered or not (e.g., a comingled release would have a site-specific amount of coverage based on that release). Eligibility questions may arise if it’s a second release or if there is an ongoing release; the coverage would be reduced due to a rule that you can’t clean up an earlier release using funds from a prior release. Once eligibility is determined, a letter from the director is sent with eligibility details of approval/disapproval and percentages.

Two things can prevent an owner from having coverage:

1) They submit their eligibility >1 yr. after tanks have been removed.

2) They did not submit eligibility within six months from being covered (coverage ended and eligibility was not submitted w/ in 6 months).

Compliance: If they have a [certificate of compliance](#) (similar to compliance/operating permit) they are covered, even if they are not completely in compliance. No deductions are taken until they are not covered anymore (they get kicked out of fund). If they are out of compliance at time of inspection, they get a notice of violation. If they don't address the violation w/ in 60 days, an order is sent to revoke fund coverage. From that time, they have six months to make a claim on a release that occurred prior to the revocation.

Certified Consultant List: The state maintains a list of consultants who can make claims against the fund. UST Rules R311-201 requires individuals working on Underground Storage Tank systems to be certified by DERR.

Consultant certification training

[Contractor Certification Program: \(UST\) - Utah Department of Environmental Quality](#)

Rates:

Cost guidelines, updated every other year: include consideration of adjustments for inflation using the Consumer Price Index (CPI); currently approved certified consultant rates; current costs charged by vendors and contractors; and other state agency reimbursement programs.

Utah's Cost Guidance Document, June 2021: [DERR-2021-008666.pdf \(utah.gov\)](#)

- All consultants are on the same rate for different levels of work, specify appropriate personnel-levels and corresponding hourly rates, used as a guideline, deviations are justified in cost proposal submitted to the Dept. and that analysis is done on a case-by-case basis.
- Cost guidance went through public comment process because it's in rule.
- Cost guidance has an *Emergency Abatement Activities section*, where the activities do not require a Cost proposal and are exempt from quote/bid requirements but do require approval by department.
- *Cost proposal amendments* must be approved by the Department.
- Corrective Action plan preparation costs include costs of CAP meeting (if applicable) w/ consultants/owners to discuss ideas to get everyone on one page- the consultant subsequently documents the meeting/ conclusions, and the documentation is submitted to be included in file.

Claim Process:

- Electronic submission application made to the Department
- Direct pay to consultants is available; if there are violations, this can be revoked.

- Claim entered into database and fiscal generates claim spreadsheet
- Project manager reviews
- Management review
- Finalized and goes through signature process

Inability to pay sites, goes through a state procurement process that requires bids, several companies are under contract on consulting side to do those and any construction has to go out to bid, same as subcontractors. Orphan sites go here. The Funding for inability to pay sites is from LUST/TRUST Grants and state funds.

Open sites: ~130 in fund - 180-200 not covered by fund - a lot of ASTs are not covered.

Deductible & Coverage: \$10,000 After deductible is paid, the fund will cover eligible expenses (for releases reported on/after May 11, 2010) up to \$990,000 (non-marketer) or \$1,990,000 (marketer)

Fund from: Sources of revenue for the PST Fund are petroleum storage tank fees, UST installation company permit fees, and the environmental assurance fee (currently 0.65 cent per gallon on the first sale or use of petroleum products in the state). Voluntary fee (.65 cent/gallon) for owners who opt into the fund. [Environmental Assurance Program - Utah Department of Environmental Quality](#)