



AUTOSENSE

California
Service
Station
& Automotive
Repair
Association

Executive Director: Sunny Campbell

Article Provided by: Bob Clark Riddell, Pangea Environmental & Engineering Services (CSSARA Endorsed Supplier)

UST CLEANUP FUND CHANGES AND CSSARA

There is tremendous change going on with UST regulations and the UST Cleanup Fund that you may want to be aware of. You should also know that CSSARA is doing its part to influence regulatory change and to preserve the effectiveness of the UST Cleanup Fund. CSSARA sponsored recent legislation and supports ongoing hearings for future important legislation. Here is a quick update.

First – Why UST Owners/Operators Need the UST Cleanup Fund

To be an owner or operator of a UST, an owner/operator must demonstrate \$1MM financial responsibility. The UST Cleanup Fund satisfies this Federal requirement; otherwise you would need UST insurance and possibly additional assurances. The UST Fund was created in 1989 to avoid the pitfalls associated with cleanups covered (or not covered) by insurance policies. The UST Fund currently provides up to \$1.5MM toward cleanup of a fuel release. Since some wish to avoid the associated fee on gasoline, our ultimate goal is the dramatic reduction of future releases via UST system improvements coupled with cleanup of existing releases.

UST Cleanups are Slowing Down and Your Liability is Going Up!

Due to insufficient funds to meet the cleanup demand, the UST Fund has recently instituted a new budget process. The result of this process is fewer and slower cleanups. For the current fiscal year, the Fund has primarily only approved budgets for groundwater monitoring, case closure work, and partial operation of existing remediation system. This year the Fund did not approve the startup of any new cleanups and very few investigations. In addition, the Fund has insufficient funds to allow new claimants into the Fund for the foreseeable future. Finally, the UST Fund is scheduled to ‘sunset’ on January 1, 2016. Without legislative action to extend the Fund, any residual contamination at your site will become your financial responsibility.

Recent Legislation Supported by CSSARA

CSSARA, together with CORE Environmental Reform, Inc., a non-profit organization representing the environmental industry and property/ business owners, recently sponsored AB291 carried by Assemblyman Bob Wieckowski (D-Fremont) to help preserve funding for the UST Fund. The bill’s recent passage will generate an estimated \$96MM annually for two years (\$192MM total) which will help minimize the slow down of cleanup efforts. AB291 maintains the 2 cents/gallon fee until January 1, 2014. This would have dropped to 1.4 cents/gallon without efforts of CSSARA and CORE. CSSARA also supported passage of AB358 (R-Smyth) to improve regulatory oversight and provides greater State Board authority for case closure. With AB358, some agencies, like fire departments, will no longer have the authority to direct you to cleanup all soil to non-detectable levels before issuing case closure.



AUTOSENSE

California
Service
Station
& Automotive
Repair
Association

Executive Director: Sunny Campbell

(Continuation of UST Cleanup Fund Changes and CSSARA)

Future Legislation to Extend Cleanup Fund and Close More Cases

With cleanups slowing down and the Fund sunset date approaching, CSSARA is concerned that UST owners/operators could be liable for future cleanup costs. CSSARA is working with CORE and the California Independent Oil Marketers Association (CIOMA) to support future legislation to extend the UST Cleanup Fund. Getting the sunset date extended now will capitalize on the current momentum; sustain a bipartisan effort, and the leadership of key legislators such as Chairman Wiecewski

A legislative hearing was held on November 30, 2011 in San Jose to introduce industry ideas for future legislation. Testimony was provided by CORE Director and long-time CSSARA supplier Bob Clark-Riddell of Pangea Environmental Services. Hearing participants testified overwhelmingly for a healthy UST Fund for the foreseeable future. Assemblyman Bob Wiecewski and his Environment Committee are providing key leadership on UST issues. He wants to improve reliability of the Fund for small businesses, local government, support gas stations to meet \$1 MM financial responsibility law, and to safeguard water quality and human health. CSSARA Executive Director Sunny Campbell attended the hearing and is corresponding with Wiecewski about matters important to the CSSARA membership.

Draft Policy to Close Cases and Leave Contamination in Ground

The State Water Resources Control Board has prepared a draft Low Threat UST Closure Policy. CSSARA, CIOMA and CORE hope to generate debate and public comments on the draft policy. The primary debate now is "How Clean is Clean?" For some sites many feel the required cleanup is excessive and case closure is justified. For other sites, owners are concerned that too much contamination left in the ground constitutes a 'dirty closure'. Banks and other lenders have also expressed concern that 'dirty closures' could hinder property transactions and refinancing, especially in the current economic climate and tight lending market. An example: a lender may require Phase II groundwater sampling prior to refinancing a loan, but the Phase II finds sufficient contamination that SBA and others will not issue a loan and owners need a hard money loan at much higher interest rates. Phase II works triggers many new cases each year, as agencies testified during the November hearing. Many feel that any new policy must be based on sound science and not compromise potential effects on businesses, the environment or human health due to financial or political limits.

How You Can Help

You may have concerns or comments about the changes at the UST Cleanup Fund or the draft Low Threat UST Closure Policy. You may be worried about slower cleanups or residual contamination at your site, or about future property transactions or refinancing for your business. You may provide feedback or even financial support to help extend the Sunset date of the UST Cleanup Fund for your own piece of mind. Please feel free to contact Sunny Campbell of CSSARA at scampbell@cssara.org; or Bob Clark-Riddell of Pangea at (510) 435-8664 or briddell@pangeaenv.com.