



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

The Honorable Lincoln D. Chafee
Governor of the State of Rhode Island
Executive Chambers
State House
Providence, RI 02903

Re: 2011 RI Underground Storage Tank Financial Responsibility Fund Annual Report

Dear Governor Chafee:

In accordance with the provisions of Section 46-12.9-8 of the Rhode Island General Laws, I am pleased to provide you with the 2011 Annual Report for the Rhode Island Underground Storage Tank Financial Responsibility Fund.

The attached report, which was approved by the Review Board on September 21, 2011, provides summaries on the operational and financial activities of the fund for State Fiscal Year 2011. The report will be posted electronically as prescribed in § 42-20-8.2.

The attached document will be posted on the Department of Environmental Management's web site at: <http://www.dem.ri.gov/pubs/index.htm>

Sincerely,

A handwritten signature in cursive script, appearing to read "Terrence D. Gray".

Terrence D. Gray, P.E., Chairman
RI Underground Storage Tank Financial Responsibility Fund Review Board

cc: Speaker Gordon. D. Fox
Senate President M. Teresa Paiva-Weed
Senate Majority Leader Daniel P. Connors
House Majority Leader Nicholas A. Mattiello
House Minority Leader Brian C. Newberry
Senate Minority Leader Dennis L. Algieri
RI UST Financial Responsibility Fund Review Board Members

Rhode Island Underground Storage Tank Financial Responsibility Fund Annual Report- Rhode Island FY 2011

The Rhode Island Underground Storage Tank Financial Responsibility Fund (UST Fund) is overseen by the Department of Environmental Management with input from a Review Board comprised of nine (9) members. The Review Board is responsible for approving, modifying or denying claims to eligible parties. Additionally, the Board provides recommendations to insure that environmental and public health impacts of the underground storage tank (UST) leaks are addressed in an effective and timely manner. Pursuant to Rhode Island General Law 46-12.9-8(e) (3), this annual report was prepared for Rhode Island State fiscal year 2011 (July 1, 2010-June 30, 2011).

Owners and/or operators of certain underground storage tanks (USTs) are required to demonstrate "Financial Responsibility" to clean up any potential release from their USTs, as regulated by the Environmental Protection Agency and adopted by the State of Rhode Island. The UST Fund provides a cost effective mechanism for these owners/operators to meet these requirements. Claims for reimbursement are filed after costs have been incurred in the process of remediating a release from an eligible UST. Claims for reimbursement are filed with the Department of Environmental Management, reviewed, and then presented to the Review Board for decision.

As outlined in the 2009 and 2010 Annual Reports for the Fund, revenue was reduced fifty percent from a one cent (\$0.01) per gallon surcharge on motor fuel to one half cent per gallon in the FY2009 supplemental state budget. These monies are collected and managed by the State of Rhode Island and dispersed by the Review Board. Disbursement of monies is generally conducted on a quarterly basis after a thorough review of the eligibility of each release and of the specific costs contained in each application. Reimbursement of 100% of the eligible costs is made (after demonstrating expenditure of the \$20,000.00 deductible) based on regulations adopted by the State of Rhode Island and availability of funds.

The Review Board made its first payment in 1997 and has since reimbursed over \$55 million directly to the clean-up of Rhode Island's environment.

In FY 2011, the Review Board met three times, September 16th, 2010; January 20th, 2011; and June 16th, 2011. The main purpose of each meeting was to fulfill the statutory obligations of hearing and approving reimbursement recommendations. Meeting minutes for these meetings are attached. The agenda items for these three Board meetings are recapped in Table 1 below.

Table 1		
September 16 th , 2010	January 20 th , 2011	June 16 th , 2011
I. Approval of previous meeting minutes II. Chairman's report III. Annual report IV. Earl's Service Station review of compliance V. Disbursements #43 & #44 VI. Disbursement #45 VII. Old Business VIII. New Business	I.Approval of previous meeting minutes II.Chairman's report III.Previous reimbursement update IV.Reimbursement recommendations for Disbursement #46 V.Proposed 2011 Board meeting deadlines and meeting dates VI.Old Business VII.New Business	I.Approval of previous meeting minutes II.Chairman's report III.Eligibility Determinations a.Disbursement #46½ b.Disbursement#47 c.Disbursement#48 IV.Payment of Claims \$575,000 available V.Colbea update VI.Old business VII.New Business

Main action items, number of claims reviewed, total dollar amount of claims filed, and total dollar amount of disbursements are outlined in Table 2.

Table 2			
Meeting Date	September 16 th , 2010	January 20 th , 2011	June 16 th , 2011
Main Action items Taken by Board	Approval of FY 10 Annual report, Approved payment for Disbursement # 43, Approved payment of 45% to Disbursement #44, Approved eligibility of claims in Disbursement # 45	Approved payment of the remaining 55% of Disbursement #44, Approved payment of 50% to Disbursement #45, Approved eligibility of claims in Disbursement #46	Approved eligibility of Food and Fuel claim, approved eligibility for Disbursements #47 and #48, Approved payment for Food and Fuel, Approved payment of the remaining 50% of Disbursement #45, approved payment of 65% of Disbursement # 46
Unpaid, Eligible Claims from Previous Submissions	\$312,779.07 (55% of Disbursement #44)	\$933,666.55	\$659,643.15
Number of claims reviewed	40	28	66
Total dollar amount of claims filed for this meeting	\$988,333.99	\$398,179.25	\$1,263,081.65
Total dollar amount of claims found eligible for disbursement	\$620,887.48	\$349,199.41	\$981,376.68
Total dollar amount disbursed	\$872,940.78	\$310,443.74	\$577,085.84
Eligible Claims carried forward due to lack of funds	\$933,666.55	\$659,643.15	\$1,103,596.47

As seen in Table 2, as a result of the revenue reductions enacted in the FY2009 supplemental State budget, the Fund did not have sufficient resources to reimburse all claims found eligible for reimbursement in accordance with rules, regulations, and procedures. In summary, as a result of the revenue reductions the Fund was not able to disburse \$1,103,596.47 for claims that were eligible for reimbursement. This was carried forward into FY 2012.

Financial reporting for FY 2011 (July 1, 2010 – June 30, 2011) showed the following:

Opening Balance 7/1/10	\$316,560.29
Revenue from Gas tax	\$2,056,413.06
Compliance applications	\$780.00
10% cost allocation retained by the Department of Administration pursuant to R.I.G.L 35-4-27	(\$139,576.41)
DOA Adjustment	\$437,423.77

Operating Expenses:	
• Salaries and Benefits -	(\$1,326.24)
• Printing/Advertising/Misc	(\$19.96)
Claims Paid:	(\$2,125,000)

This leaves a year-end cash balance of \$ \$545,254.51 with \$1,103,596.47 in unpaid claims carried over into FY 2012 due to lack of funding.

No reconsideration hearings were requested in FY 2011 and no lawsuits were filed by, or against, the UST Fund or the Review Board. No new Review Board members were appointed and no Review Board member training was conducted pursuant to Rhode Island General Law 46-12.9-8(f) (15).

When Congress amended Subtitle I of the Resource Conservation and Recovery Act in 1986, it directed the U.S. Environmental Protection Agency (EPA) to develop financial responsibility regulations for owners and operators of underground storage tanks. Under 40 CFR Chapter 1 §280.93 most owner/operators must be able to demonstrate financial responsibility in the amount of \$1 million. Should EPA deem the UST Fund to no longer be a viable fund, each owner/operator will be required to find an alternative means to show responsibility or close the site.

Based on the current pace of reimbursement claims being submitted and the decreased revenue, the Fund will not continue to meet its statutory obligations of paying eligible claims in FY 2012 without significantly limiting the criteria for eligible expenses-which may impact the ability of UST owner/operators to demonstrate financial responsibility in compliance with State and federal law- or an increase in revenue.

Continued systematic deficiencies and underfunding of the program may also jeopardize the use of the Fund as a mechanism for RI businesses to meet these financial responsibility requirements if EPA determines that the financial condition of the Fund is not sufficient.

Respectfully Submitted,



Terrence D. Gray, P.E., Chairman

Date