

# Legislative Update 2023

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# UST Funding Programs

- ▶ UST Cleanup Fund (USTCF)
- ▶ Commingled Plume Account (CPA)
- ▶ Expedited Claim Account Program (ECAP)
- ▶ Orphan Site Cleanup Fund (OSCF)
- ▶ Emergency, Abandoned and Recalcitrant (EAR)
- ▶ Site Cleanup Subaccount Program (SCAP)
- ▶ Removing, Replacing or Upgrading UST (RUST)
- ▶ School District Account (SDA)

[https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/docs/funding\\_matrix.pdf](https://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/funding_matrix.pdf)

# Funding Programs

	Removing, Replacing, or Upgrading Underground Storage Tanks (RUST) Grant	Removing, Replacing, or Upgrading Underground Storage Tanks (RUST) Loan	UST Cleanup Fund (USTCF)	Orphan Site Cleanup Fund (OSCF)	Emergency, Abandoned and Recalcitrant (EAR) Account	Site Cleanup Subaccount Program (SCAP)	Proposition 1 (Prop 1) Groundwater Sustainability Program
Purpose	Petroleum UST removal, replacement and/or upgrade	Petroleum UST removal, replacement and/or upgrade	Petroleum UST site assessment and cleanup	Petroleum UST site assessment and cleanup <i>Note: May include UST removal</i>	Petroleum UST site assessment and cleanup <i>Note: May include UST removal</i>	Cleanup of groundwater or surface waters impacted by human-made contaminants	Protection and cleanup of groundwater previously or currently used as drinking water
Funding Type	Grants	Loans Terms of 10 or 20 years, at ½ the State's most recent general obligation bond rate	Grants (Reimbursement)	Grants (Reimbursement)	Cost Recovery <i>Note: State hires and pays contractors, recovers costs via property liens or civil lawsuits</i>	Grants	Grants & Loans <i>Note: Grant applicants may provide grants or loans to public entities or private developers</i>
Eligible Applicants	Independently owned and operated small businesses with petroleum UST(s) and fewer than 20 employees Principal office and officers must be domiciled in California Excludes businesses dominant in their field of operation	Independently owned and operated small businesses with petroleum UST(s) and fewer than 500 employees Principal office and officers must be domiciled in California Excludes businesses dominant in their field of operation	Current or past owners and operators of petroleum USTs Excludes state and federal government agencies	Public or private parties addressing petroleum UST contamination – but not eligible for the USTCF Excludes parties that caused or contributed to UST release (and their family or business affiliates)	Regional Water Quality Control Boards and Local Oversight Program (LOP) agencies <i>Note: Nominated sites must be approved by the State Water Resources Control Board</i>	Public and private parties Includes responsible parties, public agencies, public utilities, non-profit organizations, tribes, and mutual water companies	Public entities Includes public agencies, public utilities, non-profit organizations, tribes, and mutual water companies <i>Note: Grant applicants may provide grants or loans to public entities or private developers</i>
Additional Criteria	The facility must have legally been in business, retailing gasoline after January 1, 1999 The facility must have sold less than 900,000 gallons of gasoline annually for the two years prior to application	All tanks owned and operated by applicant are in compliance with State UST regulations	Claimants must be in compliance with applicable UST permitting requirements and regulatory cleanup orders Claimants must have paid applicable UST storage fees	No financially responsible party has been identified that can pay cleanup costs Must have legal site access	Responsible party cannot be identified or located; OR Responsible party is unable or unwilling to comply with written cleanup order <i>Note: Different procedures for sites requiring emergency response or prompt action</i>	Not restricted to sites with petroleum UST contamination, but contaminant sources must be anthropogenic/human-related Responsible parties must lack financial resources Regulatory agency must have issued a directive, if feasible	Not restricted to sites with petroleum UST contamination, and may address natural contaminant sources.
Funding Amounts	Up to \$70,000 per grant	Up to \$750,000 per loan	Up to \$1 Million per release Approximately \$200 Million available annually	Up to \$1 Million per release \$30 Million appropriated since State Fiscal Year 2008/2009	Up to \$1 Million per release \$5 Million annual appropriation	No project limits \$19.5 Million annual appropriation	Project limits not specified \$800 Million available in total
Program Webpage	<a href="http://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.shtml">http://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.shtml</a>	<a href="http://www.waterboards.ca.gov/water_issues/programs/ustcf/loan.shtml">http://www.waterboards.ca.gov/water_issues/programs/ustcf/loan.shtml</a>	<a href="http://www.waterboards.ca.gov/water_issues/programs/ustcf/ustcf.shtml">http://www.waterboards.ca.gov/water_issues/programs/ustcf/ustcf.shtml</a>	<a href="http://www.waterboards.ca.gov/water_issues/programs/ustcf/oscf.shtml">http://www.waterboards.ca.gov/water_issues/programs/ustcf/oscf.shtml</a>	<a href="http://www.waterboards.ca.gov/water_issues/programs/ustcf/ear.shtml">http://www.waterboards.ca.gov/water_issues/programs/ustcf/ear.shtml</a>	<a href="http://www.waterboards.ca.gov/water_issues/programs/grants/loans/scap/">http://www.waterboards.ca.gov/water_issues/programs/grants/loans/scap/</a>	<a href="http://www.waterboards.ca.gov/water_issues/programs/grants/loans/proposition1/groundwater_sustainability.shtml">http://www.waterboards.ca.gov/water_issues/programs/grants/loans/proposition1/groundwater_sustainability.shtml</a>
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# UST Cleanup Fund

## ▶ USTCF Highlights

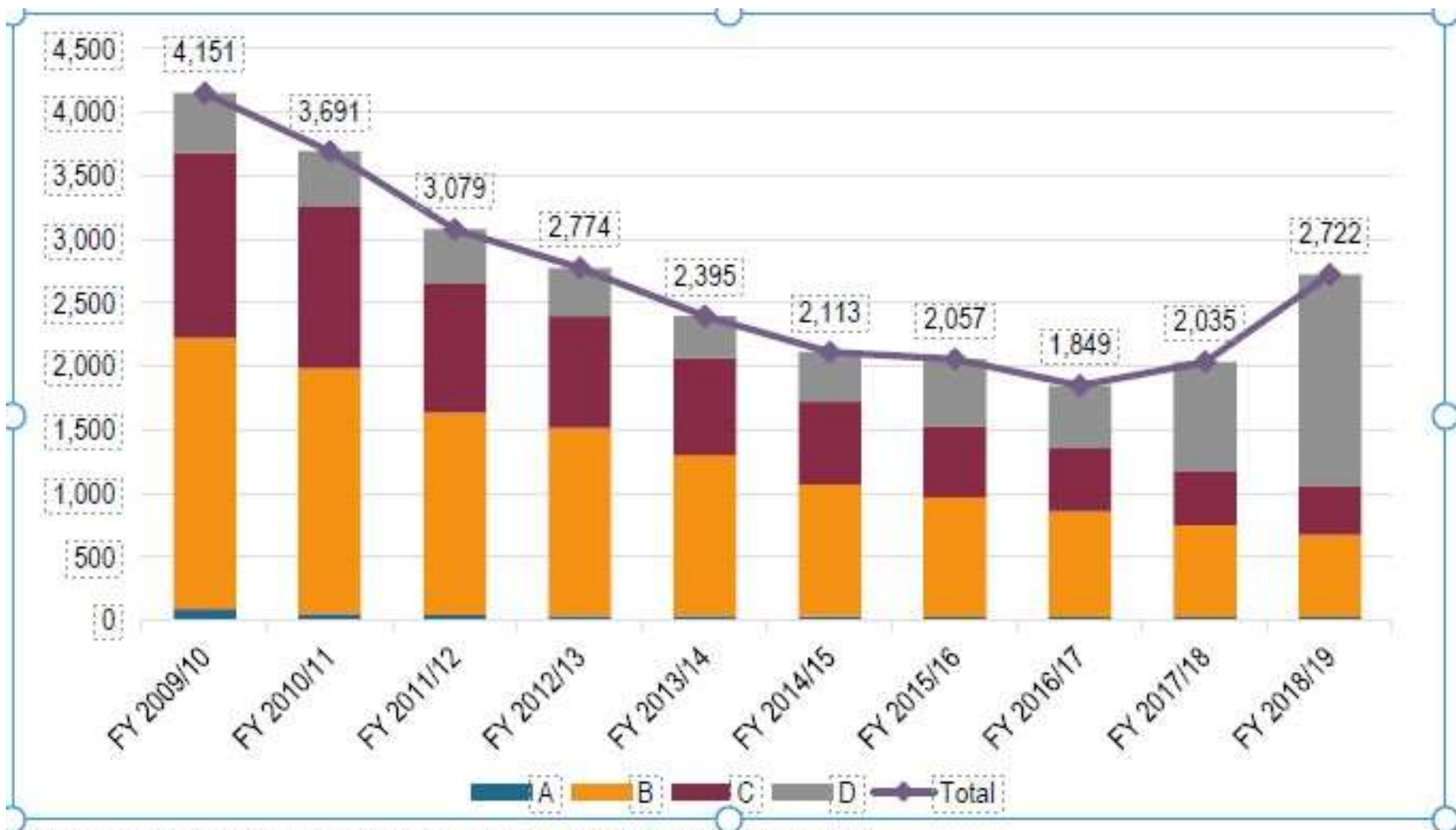
- Sunset date of 1 / 1 / 2026
- Funded by petroleum storage fee of \$0.02 / gallon
- Reimbursement limited to \$1M per claim (applicable to applications submitted after 12 / 31 / 14 – claims before that date continue to have \$1.5 M cap)
- FY22 / 23 – \$247M authorized for reimbursement (USTCF, CPA, ECAP, SDA)
- Cost guidelines are currently being updated.

# UST Cleanup Fund

- ▶ Data as of 2021
- ▶ Approximately 2,500 remaining open cases
  - ~1,800 Regional Board cases
  - ~ 700 Local Oversight Program cases
- ▶ Number of new cases is decreasing



# Active Claims by Priority Class



Source: CalSTARS Q16 reports, Cash Status Reports, and other accounting records.

# Future Status of USTCF

- ▶ The Cleanup Fund is scheduled to sunset after December 31, 2025
- ▶ After that date, funding for the UST Program (Regulatory and Cleanup) is uncertain
- ▶ AB 1115: Bill to extend USTCF to 12/31/2035
  - Introduced Feb 15, 2023
  - To be heard in committee on March 18.

# Expedited Claim Account Program (ECAP)

- ▶ Funding: \$100 million transferred from USTCF to the Expedited Claim Account in 2016.
  - \$65M spent to date; \$35M available
- ▶ Purpose:
  - Investigate potential methods for reducing the overall cost for site cleanup and the time to reach closure.
  - Increase collaboration among Fund staff, regulatory staff, claimants and their consultants.



# Expedited Claim Account Program

- ▶ Selection Criteria:
  - Claims taken from all priority ranks.
  - Cases must pose a significant threat to human health, safety or environment.
  - Cases showing little cleanup progress (e.g. cases showing the same status code in GeoTracker for 5+ years, or cases without substantive regulator action for more than 1 year).
  - Claims expending more \$ than average, likely to exceed cap.
  - Cases where corrective action progress is limited by inadequate site budget.

# Expedited Claim Account Program

- ▶ 150 active cases currently in ECAP:
  - All priority categories (B–D)
  - Expedited Reimbursement Request process
  
- ▶ Is it Working?
  - December 2017 ECAP Project Report:
    - Cost savings of \$95,763 per claim
    - Time savings of 11.7 months per claim to closure
    - Shorter RR review time (84 days vs. 149 days)
    - Fewer ineligible costs

# RUST

- ▶ RUST (Replacing, Removing or Upgrading USTs) grants and loans are available
  - Available for permanent removal of USTs.
  - Available to small business owners and operators.
  - Can provide financing up to 100% of the removal/replacement costs (including corrective action).
  - Loans: Low interest loans (\$10k–\$750k); 10–20 year terms; 2% loan fee
  - Grants: up to \$15,000

# Site Cleanup Subaccount Program (SCAP)

- ▶ \$34M appropriated annually.
- ▶ Applications accepted continuously.
- ▶ SWRCB, RWQCB, DTSC, or local agency can use funds to investigate or remediate surface or groundwater contamination.
- ▶ SWRCB, RWQCB, DTSC can issue grants to private parties:
  - Grant program for remediation of existing surface or ground water contamination
  - Also available for sites with vapor intrusion.

# Site Cleanup Subaccount Program (SCAP)

- ▶ Grant Eligible Projects:
  - Remediate the harm or threat of harm to human health, safety, and the environment
  - A regulatory agency has issued a directive
  - The responsible party lacks financial resources
  - Projects may include site characterization, source identification, or implementation of cleanup
- ▶ Projects currently being funded
  - 95 active projects receiving funding.
  - Contaminants include chlorinated solvents, hydrocarbons, metals.



# Orphan Site Cleanup Fund

## Eligibility Requirements:

- ▶ Grant Program – \$1 M per site
- ▶ Petroleum must be primary source of contamination – from a UST.
- ▶ No financially viable responsible party has been identified.
- ▶ Site must be in an urban area.
- ▶ Site cannot be eligible for USTCF.

## Funding:

- ▶ Program received no funds for 2022/2023 FY.
- ▶ Program is expected to receive funds for 2023/2024 FY.

# School District Account

- ▶ \$30 Million account to fund claims by school districts.
- ▶ School districts get priority review.
- ▶ “No funding delays” for school districts.
- ▶ Funding continues until money is gone or USTCF sunsets (12/31/2025)

# EAR (Emergency, Abandoned and Recalcitrant) Account

- ▶ \$5M annual appropriation
- ▶ Provides funding for regulatory agencies to abate emergency situations or to cleanup abandoned or recalcitrant sites.

# AB 304

- ▶ Mandated Changes to DEHQ Voluntary Assistance Program
  - Effective Jan 1, 2022
  - Notification to DTSC and RWQCB must include description of waste release, anticipated investigative and remedial actions.
  - DTSC/RWQCB have 30 days to respond.
  - Remedial Action Agreement required – must include scope of investigation, cleanup goals, remedial actions, etc. (VAP application has been revised to meet this requirement.)
  - 30-day public notification prior to case closure, with notification to DTSC/RWQCB.

# Questions?

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