

Assembly Bill (AB) 358

Frequently Asked Questions

- **Which legislator carried the bill?**
Assembly Member Cameron Smyth

- **Which sections of the Health and Safety Code were amended?**
Health and Safety Code Sections 25295, 25296.10, 25296.35, 25296.40, 25299.39.2, 25299.57, 25299.58

- **According to the Legislative Digest, what was the intent of the bill?**
 1. Require the owner or operator to transmit certain information regarding unauthorized releases at USTs to the local agency on a written form or through an electronic format developed by the State Water Board and approved by the Secretary of CalEPA
 2. Require the regional boards and regulatory agencies (i.e., local oversight program agencies, local implementing agencies, etc.) to submit a report to the State Water Board of the unauthorized releases using GeoTracker
 3. Require the State Water Board to annually post and update the information contained in the regional board and regulatory agencies reports to their website
 4. Authorize the State Water Board to adopt regulations to specify reporting requirements to implement the new provisions, including the electronic submission
 5. Permit UST owners and operators who are required to perform corrective action under certain federal laws to apply to the Fund
 6. Require closure letters sent on or after January 1, 2012 by the State Water Board or the regulatory agencies to include specific language to notify the UST owner(s)/operator(s) that they have 365 days from the date the closure letter is issued to submit costs for reimbursement to the Fund **OR** 365 from the date the

7. Authorize the State Water Board to require closure of UST cases where local implementing agencies are the lead
8. For sites where the Fund Manager recommends site closure, limit reimbursement of subsequently incurred corrective action costs to \$10,000 per year except that the Board may reimburse a greater amount if it determines the costs are related to closure or additional corrective action is necessary
9. For closure letters sent prior to January 1, 2012, require the State Water Board to notify the UST owner(s)/operator(s) by March 31, 2012, that they have 365 days from the date the closure letter is issued to submit costs for reimbursement to the Fund **OR** 365 from the date the letter of commitment is issued to submit costs for reimbursement to the Fund

○ **When does the bill take effect?**

Immediately (October 8, 2011)

○ **When was the bill signed?**

Governor Brown signed the bill on October 8, 2011

○ **When was the bill chaptered with the Secretary of State?**

October 8, 2011

○ **Was the enacting of this bill contingent upon another?**

Yes, this bill would only go into effect if AB 291 (Wieckowski) was enacted, which it was.

○ **I just received a Closure Letter, but I have old costs. Can I still submit a reimbursement request? When does the 365-day clock start?**

Yes, you have 365 days from the date of the issuance of the closure letter to submit a reimbursement request. After the 365 days, we will close your claim and any further requests for reimbursement will be returned unless one of the statutory exceptions to this time limit applies. The Fund is currently in the

process of notifying claimants with closure letters issued prior to January 1, 2012. That process is expected to be completed by March 31, 2012.

- **When will the \$10,000 annual limit for sites where the Fund Manager recommends site closure be imposed?**

The limit will be imposed for costs that are incurred after the date that the Fund Manager issues the “UST Case Closure Summary” for the site and simultaneously publishes the notification that the Fund will recommend closure at a future Board meeting. The Board may reimburse costs in excess of the annual \$10,000 limit consistent with the statutory exceptions as funding is available.

- **Will the new \$10,000 yearly limit be imposed even if the local regulatory agency is disagreeing with the Fund Manager closure recommendation? Will the claimants be notified of the applicable limitation?**

Yes, the \$10,000 yearly limit will be imposed even if there is a disagreement. Claimants will be notified of this requirement when the annual claim budgets are assigned.

- **I have closure costs that exceed the \$10,000 annual limit; can I still submit those costs for reimbursement?**

Yes, you can submit those costs. However, when submitting these costs in a Reimbursement Request package, they must be accompanied by a Budget Change Order Request Form requesting additional funds be added to the existing budget if the amount remaining in your annual claim budget is not sufficient to cover all the incurred costs. This form requires a justification from the claimant for the increase (e.g., explanation that the cost of site closure tasks exceeds \$10,000). The request for budget augmentation will be considered and evaluated based upon availability of funds and priority of the claim. The Fund is strongly encouraging claimants to submit, and have approved, Budget Change Order Requests prior to incurring any costs. This will help ensure the efficient administration of available funds and facilitate prompt payment.

- **What activities or costs does the Fund generally consider reasonable and necessary for site closure?**

The Fund generally considers the following as reasonable and necessary site closure activities:

- Case Closure Summary Document
 - Public Notification Documents
 - Well Destruction Workplan
 - Well Destruction Permits
 - Well Destruction
 - Well Destruction Report
 - Remedial Equipment Removal & Disposal
 - Investigation Derived Waste Removal & Disposal
 - Upload of any outstanding documents to GeoTracker
- **Claimants will sometimes get a “no further action” letter and a letter after closure activities (i.e., system removal, well abandonment, etc.) have been completed. Can you confirm which letter will trigger the 365-day deadline countdown?**

The closure letter, also known as the No Further Action (NFA) Letter, will be the trigger to begin the 365-day deadline countdown. However, the deadline may be extended if the site requires ongoing closure work that results in the submission of claims beyond the deadline.

- **For active claims that have received a closure letter prior to January 1, 2012, what will the reimbursement filing deadline be?**

At this point, there is no set date for the reimbursement filing deadline. Reimbursement requests received within 365 days from the date of the Fund's notification to submit a request for reimbursement of final costs will be considered to have been timely submitted. Later submissions will be evaluated consistent with the exceptions specified in subdivision (l)(1) of section 25299.57. The Fund is required to have a notification out to claimants by March 31, 2012.

- **I received a site closure letter last year and am still on the Priority List. Would I still be eligible to participate in the Fund's reimbursement program or is it closed now?**

You are still eligible to participate in the program. However, you must have an active Letter of Commitment before you can submit requests for reimbursement of costs. When the Fund issues you a Letter of Commitment for your claim, you will be notified at that time of the 365-day deadline to submit all costs for which you are seeking reimbursement.

- **I have an annual budget above \$10,000, but recently received the Fund Manager's recommendation for site closure in a UST Case Closure Summary. Does this mean my budget will automatically drop down to \$10,000?**

No, your annual budget will not decrease until the following fiscal year, at which time you will be placed into the Site Closure budget category and given a \$10,000 annual budget. As explained above, if your costs related to site closure activities are expected to be in excess of \$10,000 you can submit a Budget Change Order Request so that these additional costs are approved prior to you incurring them.

- **If I want to read the Chaptered version of the bills, where can I find that information?**

Both bills can be located at: <http://www.leginfo.ca.gov/bilinfo.html>.