

Recovery Act – Leaking Underground Storage Tank Information

The proposed Leaking Underground Storage Tank (LUST) Trust Fund site list that is eligible for ARRA (Recovery Act) spending in West Virginia contains seventy five (75) sites and was influenced significantly by the firsthand knowledge and historical information provided by the LUST Program Project Managers and the UST Program Environmental Inspectors. The sites were screened based on meeting LUST eligibility criteria, the potential environmental benefit, and the likelihood that the site work could be conducted within the timeframes (shovel ready) prescribed by the ARRA and the LUST grant award conditions.

With regard to LUST program eligibility criteria, EPA guidance states that the LUST Trust Fund has two purposes. “First, it provides money for overseeing and enforcing corrective action taken by a responsible party, who is the owner or operator of the leaking UST. Second, the Trust Fund provides money for cleanups at UST sites where the owner or operator is unknown, unwilling, or unable to respond, or which require emergency action. The list meets the eligibility criteria for the second purpose which will be carried out by the use of state contractors within the shovel ready time frames prescribed by the law.

The predominant reason that the roughly 175 other potentially eligible sites were not selected is this: current procedural notices that are required to be given to the potential responsible parties giving them a chance to remove the tanks and clean up the site were not feasible in the time frames prescribed by the law for the use of these funds. Other reasons involved firsthand knowledge by DEP staff that there were ongoing legal and contractual disputes of ownership at some sites, and difficulties in tracking down current property owners and obtaining right-of-entry agreements that are typically required by contractors for liability reasons. However, none of the above issues prevented DEP from identifying excellent candidate sites that fit the requirements and intent of the stimulus law, and complies with the common sense knowledge of its field staff.

There is no projected cost per site because experience has taught DEP that the costs can vary widely depending on the subsurface conditions discovered, the number of tanks encountered and other unknown circumstances common in this type of underground environmental restoration activity. The list included a modest number of additional sites beyond what can be expected to be funded so that West Virginia has the flexibility to substitute sites if we incur any type of operational issues in accessing, entering or conducting work at the site. The final grant work plan will also include options to utilize the funding to enhance free product recovery at critical sites and to upgrade remediation equipment at current on-going State-lead treatment sites. DEP anticipates that between 30 to 50 of the 75 sites will receive funding for site activities.

The entire Recovery Act award will be allocated to “Contractual” services. We will not need to allocate administrative costs to this one-time stimulus grant. It will also be DEP’s intent to execute contractual services efficiently and effectively in order to position West Virginia for receipt of additional redistributed stimulus funds.