



NORTH CAROLINA
Environmental Quality

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February 1, 2019

TO: UST Staff

FROM: William F. Hunneke, Trust Fund Branch Head *WFH*
Scott Bullock, Corrective Action Branch Head *JSB*

THROUGH: Z. Vance Jackson, Jr., UST Section Chief *ZVJ*

RE: **MODIFICATION OF THE PREAPPROVAL PROCESS**

The Underground Storage Tank (UST) Section modified the preapproval process on September 1, 2004, October 1, 2004, and December 20, 2005. These modifications created the present two-step process which gives Corrective Action Branch (CAB) incident managers preapproval authority over scope of work task authorizations and the Trust Fund Branch (TFB) staff preapproval authority over reasonable and necessary costs. The purpose of this modification is to foster a CAB and TFB collaborative review of preapprovals and reimbursements through defined procedures and streamlining additional risk assessment.

Preapproval versus Reimbursement

Preapprovals of some tasks are required by 143-215.94E(e2) and defined by 15A NCAC 2P .0402 (b)(9). Preapprovals are not required for emergency response as determined by local emergency officials and initial abatement activities or for assessment activities up through the Limited Site Assessment (LSA)/risk determination at sites with no previous incident number. Preapprovals are required for all post LSA/risk determination activities or for any activity at a site with a previous incident number.

Preapprovals of tasks and associated costs means that (1) the UST Section has determined that the tasks are reasonable and necessary to assess or remediate releases and, (2) the associated costs are reasonable estimates of what the tasks should cost if they are completed fully, properly, and accurately and, (3) that non-fraudulent claims for actual costs incurred for completing preapproved tasks will be reimbursed.

Since NC GS 143-215.94B(d)(8) and 143-215.94D(d)(8) prohibit the use of the trust funds for costs in excess of those required to achieve the most cost-effective cleanups, reimbursable amounts (actual costs incurred) are not always the same as preapproved amounts. For instance, many of



the costs for tasks specified in the Reasonable Rate Document (RRD) are defined in terms of costs per unit (such as dollars per hour or per foot). While these unit rates are fixed, the final costs are not because the number of units can vary. A task authorization presents the best estimate by the responsible party (RP) and the environmental service provider (ESP) as to what is needed to cost-effectively assess or remediate a release, and preapproval means that the UST Section agrees with that estimate. As an example, a task authorization may request approval for the installation of ten 20-foot deep wells of 2-inch diameter. The RRD rate for this task is specified per foot of well and the final cost may be estimated. The ESP and the incident manager may agree that this is a reasonable task and the installation of 10 wells may be preapproved. However, if ultimately only 8 wells are installed, the RP can only claim reimbursement for 8 wells. Similarly, the cost of a piece of equipment necessary to assess or remediate an incident may be estimated at \$1500 and the purchase of the equipment may be preapproved for that amount. However, if the actual cost of the equipment is \$1400, then only \$1400 may be claimed and reimbursed. **Claims of reimbursement must be fully documented by proof that costs were incurred. Deviation from scopes of work may result in reductions in claim reimbursement.**

Modified Preapproval Process

Title 15A NCAC 2L .0407 requires the Responsible Party to comply with the assessment and remediation requirements of Title 15A NCAC 2N .0706 and Title 15A NCAC 2L .0106(c) and 2L .0106(g). Typically, a Comprehensive Site Assessment (CSA) Report prepared in accordance with these requirements and the most recent version of the Guidelines for Assessment and Corrective Action for UST Releases submitted within 90 days of notification would satisfy this requirement. Alternatively, an extension to this deadline may be obtained through the completion and submittal of a Risk Assessment Report within 90 days of notification. The Additional Risk Assessment Report supplements the LSA through the assessment of groundwater characteristics and the risk to nearby receptors.

Upon receipt of a Phase II Limited Site Assessment (LSA) the incident manager will determine the risk for the release. If the release is ranked above the Trust Fund Funding Bar and additional assessment and remediation is needed, the incident manager will request a Comprehensive Site Assessment (CSA) in accordance with 15A NCAC 2L .0407. If further assessment and remediation is required, all work conducted after the Phase II LSA **must be preapproved** by the UST Section to preserve the RP's eligibility for trust fund reimbursement.

Upon receipt of a Phase I LSA for the first release at a site the incident manager will determine the risk for the release. If the release is ranked below the UST Funding Level the incident manager will issue a stop funding notice to the responsible party. If the release is ranked above the UST Funding Level the incident manager may request information (**Additional Risk Assessment Report**) pursuant to 15A NCAC 2L .0407 to determine potential exposure of receptors to the discharge or release.

Specifically, the **Additional Risk Assessment Report** should include:

- The installation of three horizontal extent monitoring wells and one vertical extent monitoring well. One monitoring well shall be installed upgradient of the source of contamination and two monitoring wells shall be installed downgradient of the source of contamination, as best as can be determined, and located such that groundwater flow direction and hydraulic gradient may accurately be determined. The vertical extent monitoring well shall be installed immediately downgradient (as best as can be determined) of the source area of contamination, as best as can be determined, with any drilling greater than a depth of 75 feet requiring authorization from the regional office incident manager. Note, the vertical extent monitoring well shall not connect aquifers.
- The analysis of representative soil samples collected during the construction of the monitoring wells. One soil sample must be collected in the unsaturated zone and one in the smear/saturated zone from suspected worst-case locations exhibiting visible contamination or elevated levels of volatile organic compounds based on field screening techniques. Only the suspected most contaminated soil sample in each zone from each boring should be submitted for laboratory analysis using the EPA 8015B TPH (or equivalent) appropriate for the fuel types suspected in the release.
- The collection of groundwater samples from the new on-site monitoring wells, analyzed by the appropriate methods, for the constituents relevant to the release.
- The collection of groundwater samples from any onsite water supply wells and any water supply wells located adjacent to the site less than 250 feet from the source area of the release, analyzed by the appropriate method(s) for the constituents relevant to the release. Sampling of more than 5 water supply wells will require approval of the regional office incident manager.
- The survey of all monitoring wells and collection of potentiometric data for the completion of a potentiometric surface/groundwater elevation and flow map.
- The completion of one aquifer slug test to provide a calculation of hydraulic conductivity, transmissivity, and linear groundwater velocity.

After an Additional Risk Assessment Report is submitted and approved by the CAB incident manager, the incident manager will re-evaluate the risk for the release. If the release is ranked below the Trust Fund Funding Level the incident manager will issue the appropriate notice to the responsible party. If the release is ranked above the Trust Fund Funding Level and additional assessment and remediation is needed, the incident manager will request a Comprehensive Site Assessment (CSA) in accordance with 15A NCAC 2L .0407. If further assessment and remediation is required, all work conducted after the Additional Risk Assessment Report **must be preapproved** by the UST Section to preserve the RP's eligibility for trust fund reimbursement.

Preapproval Instructions

Please see the Trust Fund Instructions for completing an ePATA (electronic preapproval) form.

1. IM uploads new ePATA here: [ePATA Folder](#) -> Select Upload -> Files OR drag and drop files from your computer or OneDrive desktop client and drop them to the right side of this page under "ePATA - Submitted". You may also select your files in OneDrive online and choose "Copy to" and navigate to the UST - ePATA library in SharePoint and then select "Copy here."

All ePaTA documents must be named in the following manner:

- For ePATAs: (ex. 12345-3 Leaky Tank Mart)
- For ePATA Change Orders: (ex. 12345-3A Leaky Tank Mart)
- For Supporting Documents like a SOW: (ex. 12345-3 Leaky Tank Mart SOW)
- No special characters! No dates (unless hyphenated)! Spaces and hyphens are acceptable.
- The incident manager must include a justification for the requested work if not specifically indicated in supporting documents.

Note, if a "Directed CAB only TA" please proceed to Item Number 6. The "Directed CAB only TA" only requires the CAB incident manager to sign the TA.

2. TFB will see that a new ePATA has been submitted and is ready for their review.

3. If TFB determines cuts to the proposed scope of work in the ePATA may be necessary, the TFB reviewer must first contact the incident manager and reach consensus prior to making any cuts in the proposed scope of work. If a consensus is not reached, refer to Preapproval Resolution Procedures.

4. TFB is responsible for removing supporting documents from the ePATA library when they have completed their review of the ePATA and changing the ePATA status to "Trust Fund Reviewed" before saving to SharePoint.

5. Following TFB review, the IM will receive an email notification that the ePATA has been reviewed/processed.

6. IMs are responsible for marking ePATA status "completed" and saving to SharePoint before downloading/saving a local copy. IMs should mark complete ONLY when they intend to sign and send to the consultant.

To foster a CAB and TFB collaborative review of preapprovals and reimbursements, the CAB and TFB have reached a consensus concerning certain scopes of work in which only the CAB incident manager will review and approve the ePATA. The following scopes of work only require the CAB incident manager to review and approve the ePATA:

- When completing an ePATA of this type, choose “Directed-CAB Only” from the drop down menu located in the upper left-hand corner of the ePATA.
- Notice of Residual Petroleum Contamination (NRP), public notice, and well abandonment related to proposed closure/No Further Action (NFA) of a release.
- Routine monitoring reports including monitored natural attenuation reports (at sites that do not have a remediation system in operation) with a cost less than \$2,500 (e.g., monitoring wells and water supply wells to be sampled, analyses of groundwater samples, monitoring report submittal, etc.). **Please note, the monitoring report must satisfy the CAB and TFB Guidelines and proposed scope of work to be fully reimbursed.**

Preapproval Resolution Procedures

The CAB and TFB will collaborate to establish project consensus. For those ePATAs where the CAB and TFB do not agree on the proposed scopes of work the following procedures shall be followed to resolve any disagreements concerning proposed scopes of work:

- The CAB incident manager must provide justification for the proposed scope of work as well as file information to the TFB reviewer (all recent incident reports are required to be scanned and submitted for inclusion into Laserfiche so recent file information should be readily available for review).
- The TFB reviewer must first contact the incident manager and discuss proposed cuts to the ePATA scope of work.
- If CAB and TFB staff do not agree on the proposed scopes of work then a meeting/conference call between the CAB incident manager, CAB regional office supervisor, CAB Branch Head, TFB reviewer, and TFB Branch Head must be scheduled by the CAB incident manager to resolve the issue(s) and reach consensus.
- If consensus on the proposed scopes of work is not reached, then the UST Section Chief will review the information (which may include another meeting) and render a decision concerning the proposed scope of work.