

EMERGENCY, ABANDONED, & RECALCITRANT (EAR) ACCOUNT

The EAR Account is a program administered by the State Water Resources Control Board (State Water Board), Underground Storage Tank (UST) Cleanup Fund within the Division of Financial Assistance. The EAR Account receives an annual \$5,000,000 dollar appropriation from the UST Cleanup Fund.

The EAR Account provides funding to Regional Water Quality Control Boards (Regional Water Boards) and local agencies to initiate corrective action at petroleum underground storage tank (UST) sites which have had an unauthorized release and which require either:

- 1) An immediate or prompt action response (emergency site) to protect human health, safety and the environment; or
- 2) Action at a site where a responsible party (RP) cannot be identified or located (abandoned site);
or
- 3) Action at a site where an RP is either unable or unwilling to take the required corrective action (recalcitrant site).

RECENT UPDATES:

On September 25, 2014, Senate Bill (SB) 445 (Hill, Chapter 547, Statutes of 2014) reduced the maximum amount available for an eligible occurrence from \$1.5 million to \$1 million as of January 1, 2015. Only EAR Sites nominated and EAR sites active before January 1, 2015 are eligible for the maximum amount of \$1.5 million. Additional information on SB 445 can be found at http://leginfo.ca.gov/pub/13-14/bill/sen/sb_0401-0450/sb_445_bill_20140925_chaptered.pdf.

TYPES of EAR FUNDING

Emergency

Regional Water Board Executive Officers (EOs) and Local Agency (LA) Directors (Requestors) or their designees, may request emergency funds for amounts up to \$100,000 to be used for emergency response for a crisis situation requiring immediate action caused by an unauthorized release of petroleum from a UST to protect human health, safety, or the environment. To request Emergency funding, the requestor may contact the EAR Account Manager or Assistant Deputy Director either verbally or via email and demonstrate the need for emergency funds.

Prompt Action

Regional Water Board EOs, and LA Directors (or their designee), may request up to \$200,000 if prompt action is required to protect human health, safety and the environment, the RP, if any, is either unable or unwilling to comply with a written corrective action order, and where the required corrective action cannot wait until the next EAR Account Annual Site List (ASL) is developed. The request demonstrating the need for prompt action funding is submitted to the EAR Account Manager. If the EAR Account Manager and technical staff determines that the request is eligible for consideration, it will be presented to the State Water Board within 60 calendar days of receipt of the request with a recommendation.

Abandoned & Recalcitrant

Provided there are sufficient funds in the EAR Account, Regional Water Boards and LAs will be surveyed annually to obtain a list of nominated and eligible abandoned and recalcitrant UST sites where corrective action funds are necessary. Up to \$1,000,000 per occurrence may be allocated for payment of corrective action and local agency staff costs, less any amounts previously allocated for emergency or prompt action costs. An EAR ASL is developed to identify sites eligible for EAR Account funding.

Except for funding requested for emergency or abandoned sites, requests for funding will be considered only if the following requirements are met:

1. The regulatory agency has confirmed the existence of an unauthorized release from an on-site petroleum UST and;
2. The RP is either unable or unwilling to comply with a written order issued by a Regional Water Board or LA pursuant to California Health & Safety Code section 25296.10.
3. The regulatory agency has conducted a Low-Threat UST Case Closure evaluation consistent with the Low-Threat UST Case Closure policy adopted under State Water Board Resolution No. 2012-0016 and the impediments to closure have been updated on Geotracker. State Water Board Resolution No. 2012-0016 and the Low-Threat UST Case Closure policy are available for review at the following link:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2012/rs2012_0016.pdf

COST RECOVERY FROM A RESPONSIBLE PARTY:

Whenever costs are incurred from the EAR Account, the State Water Board seeks appropriate cost recovery from the owner or operator of the UST or from any other responsible party. Cost recovery may include attaching a lien to the site or referring the case to the Attorney General's Office to file a civil action. Regional Water Boards and local agencies will be responsible for maintaining accounting and record keeping systems to adequately document all EAR Account expenditures to support cost recovery efforts.



FOR MORE INFORMATION:

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WEBSITE: http://www.waterboards.ca.gov/water_issues/programs/ustcf/ear.shtml

SUBSCRIBE TO THE OSCF ELECTRONIC MAILING LIST AT:

http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml

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