


<b>INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT</b>	<b>STATUS:</b> Pending	<b>POLICY NUMBER:</b> Waste-0078-NPD	
<b>AGENCY NONRULE POLICY DOCUMENT</b>  <b>SUBJECT:</b> <i>Excess Liability Trust Fund Cost Guidance</i>	<b>AUTHORIZED:</b> <i>Bruno L. Pigott, Commissioner</i>		
	<b>SUPERSEDES:</b> New	<b>ISSUING OFFICE(S):</b> Office of Land Quality, Petroleum Branch, UST Operations Section	
	<b>ORIGINALLY EFFECTIVE:</b> TBD	<b>RENEWED/REVISED:</b> N/A	

**Disclaimer:** This Nonrule Policy Document (NPD) is being established by the Indiana Department of Environmental Management (IDEM) consistent with its authority under IC 13-14-1-11.5. It is intended solely to provide guidance and shall be used in conjunction with applicable rules or laws. It does not replace applicable rules and laws, and if it conflicts with these rules or laws, the rules or laws shall control. Pursuant to IC 13-14-1-11.5, this policy will be available for public inspection for at least 45 days prior to presentation to the appropriate State Environmental Board, and may be put into effect by IDEM 30 days afterward. If the nonrule policy is presented to more than one board, it will be effective 30 days after presentation to the last. IDEM also will submit the policy to the Indiana Register for publication.

## 1.0 PURPOSE

The purpose of this policy is to provide a process for expedited payment for certain claims submitted to the Excess Liability Trust Fund (ELTF). While current ELTF regulations contain guidelines for reimbursement for certain specific tasks, including cost ranges and maximum reimbursement amounts, the regulations do not contain a process for expedited reimbursement as is outlined in this policy. This policy does not preclude claimants from seeking additional reimbursement or reimbursement at a higher rate than listed within this policy if adequate documentation is provided to support the claim and justify a higher reimbursement amount.

Claims submitted in accordance with this NPD will carry the presumption of approval unless case-specific circumstances would require additional information to confirm the claim. Once a claim is determined to be eligible for payment, it will be reimbursed at the rates listed in this policy.

## 2.0 SCOPE

The ELTF is a state trust fund which provides reimbursement to owners and operators of underground storage tanks (USTs) who have incurred corrective action costs related to releases of petroleum from those USTs. IDEM administers the ELTF in accordance with Indiana Code (IC) 13-23 and rules in Titles 328 and 329 of the Indiana Administrative Code (IAC). IC 13-23-9-1.5 limits ELTF reimbursement to costs which are cost-effective and reasonable for work performed as listed under the statute. The standard is further defined by 328 IAC 1-1-8.3 as, in part, work which is appropriate and performed only as necessary to complete corrective action. Additionally, 328 IAC 1-3-5 provides guidelines for many reimbursable rates and activities related to investigation and remediation of ELTF eligible releases from leaking USTs.

The following tasks are covered by this NPD: drafting of Initial Site Characterization (ISC) reports; drafting of Further Site Investigation (FSI) reports; project planning and preparation of quarterly groundwater monitoring events; drafting of Quarterly Monitoring Reports (QMRs); monthly operation and maintenance costs (O&M); drafting of No Further Action (NFA) request reports; and ELTF claims preparation. Once IDEM determines a claim is eligible, reimbursement will be provided at the rates specified in this NPD. Any additional reimbursement shall be provided upon a determination by IDEM showing that the work was reasonable and cost effective, based on the information provided by the claimant.

Reimbursement rates listed in this NPD are based on the typical work required to satisfactorily complete the tasks specified. It is important to note this policy does not provide guidance on how to conduct assessment and remediation activities, nor limit the activities a consultant may choose to perform. Appropriate assessment and remediation activities are to be conducted in consultation with the IDEM Project Manager (PM) for the site.

### 3.0 SUMMARY

This nonrule policy document (NPD) provides a streamlined process for submittal, review, and reimbursement of certain specific tasks commonly performed at petroleum UST corrective action sites. Indiana Department of Environmental Management (IDEM) has reviewed thousands of claims to determine a range of what is considered reasonable in terms of the work required to complete tasks and the amount to reimburse for the tasks.

### 4.0 POLICY

#### 4.1. Preparation of an Initial Site Investigation Report

This task consists of all personnel time to summarize initial site conditions and to provide the data and information specified by the PM in accordance with 329 IAC 9-5-5.1. The ISC Report should be prepared using the LUST ISC Report Cover Sheet and Report Format State Form 55439. The LUST ISC Checklist State Form 55440 should be included with the submission of the ISC Coversheet and Report. The **task-based reimbursement cost for this claim would be \$6,800.00** based on the level of effort summarized in the list below.

Activities included in total hours for above task:

- Data on the nature, site-specific location, and estimated quantity of release
- Initial response and abatement information
- Product recovery information, if applicable
- Site background information
- Site investigation information including analytical data collected
- Known or expected extent of the contamination
- Recommendations of additional site characterization activities
- Drafting (site plan, soil boring logs, contaminant plume maps, etc.,)
- Administrative support
- Coordination/liaison with regulatory agencies
- Senior review
- Revision to submittal, if determined to be deficient by IDEM PM
- Development of Sensitive Receptor Survey to determine the existence of sensitive receptors within a given radius from a site with groundwater contamination
  - Activities included in total hours for above task:
    - Database research
    - Records review with Department of Natural Resources (DNR) records, wetlands maps, etc., in context with outer boundary of groundwater contaminant plume
    - Report production with scaled map depicting each sensitive receptor
    - Links to information source must be provided in the document
    - Field identification of sensitive receptors, if necessary
- Preparation of two-dimensional geologic cross sections
- Development of a conceptual site model. A conceptual site model is a three-dimensional understanding of site conditions which conveys what is known or suspected about the release sources, release mechanisms, contaminant fate and transport, exposure pathways, potential receptors, and possible risks to humans and ecological receptors (e.g., birds, fish, and wildlife).
  - Activities included in total hours for above task:
    - Database research
    - Review and evaluate historic, site-specific data to be used in the conceptual site model

- Discussion of data compiled to date, potential data gaps, evaluation of risks due to contamination present, and recommendations for additional characterization, remediation, or closure
- Drafting (e.g., site plan, potentiometric maps, isocontour maps, soil boring logs, contaminant plume maps, cross-sections, fence diagrams)
- Report production with all model outputs and visual interpretations

#### 4.2. Preparation of a Further Site Investigation Report

This task consists of all personnel time to summarize additional site conditions and to provide a summary of the data collected and information specified by the PM in accordance with 329 IAC 9-5-6 to determine the full extent of contamination. Please note IDEM is requesting one comprehensive FSI Report within 365 days of the request of additional investigation by IDEM. It is not cost effective or reasonable to have multiple FSI reports, especially since IDEM has already directed that there should one report with the delineation completed as of October 2013.

Most site investigation reports include details regarding the site and the activities that took place. When there are there are previous reports already submitted for a release, much of the details in the first report can be duplicated and placed into the new report. An example is in the preparation of the FSI Report where information in the ISC Report can be duplicated. The FSI is prepared using the FSI Report Cover Sheet and Report Format State Form 55441. The **task-based reimbursement cost for this claim would be \$4,500.00** based on the level of effort summarized in the list below.

Activities included in total hours for above task:

- Site investigation information including analytical data collected
- Detailed description of the monitoring well installation procedures
- Data evaluation including hydrogeologic information
- Recommendations for additional site characterization activities
- Updates to the conceptual site model
- Updates to the two-dimensional geologic cross sections
- Preliminary recommendations for remediation of soil and or groundwater
- Drafting (site plan, soil boring logs, contaminant plume maps, etc.,)
- Administrative support
- Coordination/liaison with regulatory agencies
- Senior review

#### 4.3. Project Planning and Preparation for a Quarterly Groundwater Monitoring Event

This task consists of all personnel time required to prepare for mobilization to the site to conduct a quarterly groundwater sampling event. This includes the following tasks:

- Coordinating with the client, IDEM, and attorney for scheduling the day of sampling
- Coordinating with the laboratory for sampling supplies
- Preparation of the field notes package consisting of one or more of the following: field activity daily logs, groundwater sampling field data sheets, the health and safety plan, project contacts list, chain of custody forms, site maps, well sampling order forms, and any standard operating procedures for field staff
- Time needed to organize the field supplies for conducting the work, including, loading, and unloading equipment from company vehicles.
- Preparation of samples, including chain of custody, for laboratory pickup and delivery
- Coordination of purge water drum disposal

The **task-based reimbursement cost for project planning and preparation of a quarterly monitoring event is \$800.00**

The field work conducted at the Site is assumed to include the following: a brief site health and safety plan review; opening the monitoring wells and gauging the depth to groundwater; purging and sampling one or more groundwater monitoring wells for analyses of dissolved petroleum hydrocarbon constituents and in-situ oxidation and bioremediation parameters, if

requested; and site cleanup activities including securing all monitoring wells. This task also applies to wells in which liquid nonaqueous phase liquid is present and recovery is being performed by technical staff (e.g., hand bailing, change out of passive product absorbent socks or skimmers, etc.).

#### 4.4. Preparation of a Quarterly Monitoring Report

This task consists of all personnel time to produce a status report summarizing all groundwater monitoring and sampling results and remediation activities as required by IDEM. Such reports are to be prepared on a quarterly basis unless the IDEM PM requests a different schedule. The work should be adjusted based on the specific site. **The task-based reimbursement cost for QMR writing is \$1,600.00**

Activities included in total hours for above task:

- Summary of all site activities during reporting period (commonly quarterly)
- Data assimilation
- Regulatory agency liaison
- Administrative support
- Preparation and updating of contaminant plume maps and other figures as required by the IDEM PM

Potential activities or items which should be added to above list, as necessary:

- Additional time to provide discussions regarding the results of limited assessment or remedial activities such as the installation of wells, the excavation of contaminated soil, or monitoring system changes to optimize mass removal, if not discussed in a separate standalone report.

The task-based reimbursement cost for QMR writing assumes a site has up to 12 monitoring wells.

NOTE: If the same data is submitted in another requested report such as a FSI Report or a Vapor Intrusion Report, a QMR should NOT be submitted. QMR preparation costs for duplicative information will NOT be reimbursed.

IDEM also realizes a large amount of details in a QMR are duplicated from prior reports. The location, geology, hydrogeology, and sampling protocols should not change significantly. The tables and maps need to be updated if they include new data, but no major changes are normally needed. The appendices of the document may be from other sources (e.g., sample results from the laboratory) or duplicates (e.g., standard sampling protocol followed). Once the first QMR is prepared for a site, the subsequent reports should take less time, effort, and cost to prepare.

#### 4.5. Preparation of a No Further Action Report

##### A. NFA Request – Unconditional Closure

This task consists of all personnel time to produce a stand-alone report requesting a regulatory determination of NFA when there is no known soil and/or groundwater contamination will be left in place which exceeds screening levels. **The task-based reimbursement cost for this report would be \$1,100.00.**

Activities included in total hours for above task:

- Provide a brief site history
- Compile data supporting NFA request
- Revision to submittal, if determined to be deficient by the IDEM PM

##### B. NFA Request - Using Lines of Evidence.

This task consists of all personnel time to produce a stand-alone report requesting a regulatory determination of NFA when there is known soil and/or groundwater contamination exceeding risk-based screening levels will be left in place. The report must discuss lines of evidence and if needed, present data pursuant to calculations and modeling which verify: 1) the groundwater contaminant plume will be remediated by natural attenuation before it migrates offsite or impacts sensitive receptors; and/or 2) known soil contamination will not

impact groundwater or other sensitive receptors. The **task-based reimbursement cost for this report would be \$2,350.00.**

Activities included in total hours for above task:

- Summary of all site activities during life of the project to include:
  - Site history
  - Corrective action and remediation history
  - Current concentrations and extent of contamination
  - Hydrogeologic setting and conditions
  - Groundwater contaminant plume stability
  - Amount of contaminant mass and concentration reduction
  - Potential receptors in the site vicinity and possible contaminant pathways
- Provide lines of evidence for unrestricted site closure
- Calculations and modeling results, if needed
- Revision to submittal, if determined to be deficient by the IDEM PM

Potential activities or items that should be added to above table, as necessary:

- Revision of submittal, if requested by regulatory agencies; including conditions unknown to FAC; or extenuating conditions requiring consideration as requested by the agency

#### C. NFA Request - With Environmental Restrictive Covenant

This task consists of all personnel time to produce a stand-alone report requesting a regulatory determination of NFA with a draft Environmental Restrictive Covenant (ERC). The report should summarize all historic assessment, remediation, and sampling activities into a report which requests closure using risk-based closure objections per IC 13-25-5-8.5. The report may be requested by IDEM following submittal and review of other site closure related documents with a reduction of hours needed. The **task-based reimbursement cost for this report would be \$5,500.00.**

Activities included in total hours for above task:

- Regulatory agency liaison
- Preparation and updating of contaminant plume maps and other figures
- Summary of all site activities during life of the project to include:
  - Site history
  - Corrective action and remediation history
  - Magnitude and extent of contamination
  - Hydrogeologic setting and conditions
  - Groundwater contaminant plume stability
  - Amount of contaminant mass and concentration reduction
  - Current contaminant concentrations and distribution
  - Potential receptors in the site vicinity and possible contaminant pathways
- Obtain property deeds, prepare draft ERC
- Record IDEM approved ERC
- Administrative support
- Senior review
- Revision to submittal, if determined to be deficient by IDEM PM

Potential activities or items that should be added to above list, as necessary:

- Travel time and mileage if deed cannot be obtained from owner, online, or by mail
- Travel time and mileage to record IDEM approved ERC
- Revision of submittal if requested by regulatory agencies, including conditions unknown to the environmental consultant, or extenuating conditions requiring consideration as requested by the agency

#### 4.6. ELTF Claim Preparation

This task consists of all personnel time for the preparation and submittal of a reimbursement claim to the ELTF. IDEM believes it is reasonable to consolidate invoices such that there is one submittal or claim per quarter for an incident, and the below assumes three pay requests

within the claim. The **task-based reimbursement cost for this claim would be \$475.00** based on the level of effort summarized in the list below.

Activities included in total hours for above task:

- Completion and submittal of all necessary forms
- Submittal of additional information, if requested by ELTF
- Submittal of all backup documentation to support reimbursement of the costs

#### 4.7. For Assistance

Please contact the UST Operations Section staff via email at [ELTFQuestions@idem.IN.gov](mailto:ELTFQuestions@idem.IN.gov) or by phone at (317) 232-8900 for more information or assistance.

## 5.0 REFERENCES

### 5.1. Indiana Statutes:

- A. [IC 13-23](#) Environment, Underground Storage Tanks
- B. [IC 13-23-9-1.5](#) Environment, Underground Storage Tanks, Payment from Excess Liability Trust Fund, Costs for Which ELFT Claims May Be Paid
- C. [IC 13-25-5-8.5](#) Environment, Hazardous Substances, Voluntary Remediation of Hazardous Substances and Petroleum, Voluntary Remediation Work Plan Objectives; Additional Action to Protect Human Health and the Environment Not Necessary Under Certain Circumstances; Risk Based Remediation Objective and Proposals

### 5.2. Indiana Administrative Codes:

- A. [328 IAC 1-1-8.3](#) Underground Storage Tank Financial Assistance Board, Excess Liability Trust Fund Corrective Action and ELFT Liability Indemnity Claim Payments, Definitions and References, Reasonable defined
- B. [328 IAC 1-3-5](#) Underground Storage Tank Financial Assistance Board, Excess Liability Trust Fund Corrective Action and ELFT Liability Indemnity Claim Payments, Costs
- C. [329 IAC 9-5-5.1](#) Solid Waste Management Division, Underground Storage Tanks, Initial Response, Site Investigation and Corrective Action, Initial Site Characterization
- D. [329 IAC 9-5-6](#) Solid Waste Management Division, Underground Storage Tanks, Initial Response, Site Investigation, and Corrective Action, Further site investigation for soil and ground water cleanup

### 5.3. Agency Forms:

- A. [LUST Further Site Investigation \(FSI\) Report Cover Sheet and Report Format SF55441](#)
- B. [LUST Initial Site Characterization \(ISC\) Checklist SF55440](#)
- C. [LUST Initial Site Characterization \(ISC\) Report Cover and Report Format SF55439](#)
- D. [LUST No Further Action Request Cover Sheet and Report Format SF56088](#)
- E. [LUST Quarterly Monitoring Report \(QMR\) Cover Sheet and Report Format SF56087](#)

6.0 SIGNATURES



Bruno L. Pigott, Commissioner  
Indiana Department of Environmental Management

10/7/2021  
Date



Peggy Dorsey, Assistant Commissioner  
Office of Land Quality

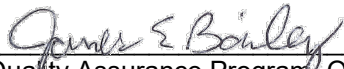
10/5/2021  
Date



Nancy King, General Counsel

10/5/21  
Date

This policy is consistent with agency requirements.



Quality Assurance Program, Office of Program Support  
Indiana Department of Environmental Management

07 Oct 2021  
Date

Remainder