

Kansas UST Property Redevelopment Trust Fund Overview

The Kansas UST Property Redevelopment Trust Fund was created by amendments to the Kansas Storage Tank Act (Senate Bill 406, effective July 1, 2012 and House Bill 2192, effective July 1, 2015) that 1) provide an incentive for eligible property owners to remove abandoned USTs that were used for storing petroleum and 2) provide an incentive for eligible UST owners to replace single-wall USTs with UST systems with secondary containment.

Removal of abandoned USTs. The fund allows reimbursement of 90% of the cost up to \$25,000 per facility for removal or closure in place of the abandoned USTs. Removal is the preferred method of closure, however, closure in place is allowed when there are physical constraints that cannot be reasonably overcome to allow removal of the UST.

An abandoned UST must exhibit one or more of the following conditions: 1) is not in use for more than three months, 2) does not have a current tank permit issued by the department or 3) has been temporarily closed, in accordance with department guidelines, for more than twelve months. The definition of property owner, for the purposes of the UST redevelopment fund, is a person who owns real property on which an abandoned UST is located.

A property owner is eligible for reimbursement if the property owner has been approved by the secretary and the property owner 1) has never placed petroleum in the UST or withdrawn petroleum from the UST, 2) is not the United States government or any of its agencies, 3) is in substantial compliance with the Kansas storage tank act, 4) provides 30 day notice and access to the department to perform an environmental assessment of the site during the UST removal, and 5) if petroleum contamination is discovered during the environmental assessment of the site, the property owner applies to the Petroleum Storage Tank Release Trust Fund to perform corrective action to address the contamination.

To receive reimbursement, the property owner must submit, and have approved by KDHE, an application to the redevelopment fund. Prior to removal of the UST the district office should be notified for oversight, just as is the process for all UST removals. Prior to reimbursement, the following requirements must be met. 1) Bids must be acquired from persons qualified to perform UST removals, 2) Allowable costs must be approved by KDHE and 3) a deed restriction must be placed on the property prohibiting the installation of UST's for the 10 years following the date of the UST removal. As a condition for reimbursement, the applicant must provide a notarized copy of the recorded deed restriction for the property with the seal of the register of deeds to the department.

The Secretary of Health and Environment may also use the fund to permanently close abandoned USTs. This situation can arise when a UST is encountered and needs to be removed to access contaminated soil during remedial action conducted through the Petroleum Storage Tank Release Trust Fund.

Replacement of single-wall USTs with UST systems with secondary containment. The fund allows for reimbursement of up to \$50,000 per facility to eligible owners who replace a single-wall UST system with a UST system that has secondary containment. The reimbursement program ends June 1, 2020 and is retroactive to August 8, 2005. A maximum of \$3,000,000 may be reimbursed per state fiscal year subject to availability of money in the UST redevelopment fund.

The Kansas Storage Tank Act, KSA 65-34, 100 *et. seq.* defines secondary containment of a UST system as one that has an inner and outer barrier with an interstitial space that is monitored for a release of regulated substances from the underground storage tank and piping, and includes containment underneath the dispenser system and at the submersible pumps of the UST. The containment system must be designed to prevent leaks from reaching soil or groundwater. The containment must be: (1) liquid tight on its sides, bottom and at any penetrations; (2) compatible with the substance conveyed by the piping; and (3) allow for visual inspection and access to the components in the containment or be monitored for a release of regulated substances from dispenser and piping.

A UST owner is eligible for reimbursement if 1) the UST system is used for the storage of petroleum products for resale and is subject to the environmental assurance fee (K.S.A. 65-34,117), 2) owner has been approved by the secretary and is not the federal government, 3) owner replaces all components of a single-wall UST system with a secondary containment system after August 8, 2005 and before June 30, 2020, 4) owner is in substantial compliance with the Kansas storage tank act, 5) owner provides 30-day notice and access to the department to perform an environmental assessment of the site, and if petroleum contamination is found or known to exist during replacement of the single-wall tank system the owner applies to the underground fund to perform corrective action to address the contamination and 6) the UST was registered with the department on or after May 1, 1981.

For replacements undertaken after July 1, 2015, the storage tank owner must submit an application for reimbursement on forms supplied by the department and receive approval from the secretary of the proposed secondary containment system plan. Upon approval of the plan, the owner shall obtain at least three bids from persons qualified to perform the secondary containment system installation. The requirement for three bids may be waived if the owner has made a good faith effort, but has not been able to obtain three bids from qualified bidders.

For replacements undertaken before July 1, 2015, the owner must submit an application for reimbursement on forms supplied by the department with proof of costs and receive approval from the secretary. The secretary may, in the secretary's discretion, determine those costs which are allowable as secondary containment system installation.