



California Independent Oil Marketers Association  
3831 N. Freeway Blvd. #130 • Sacramento, CA 95834  
(916) 646-5999 • (916) 646-5985-fax  
www.cioma.com

September 1, 2009

## **Amendments to AB 1188 (Ruskin) State Underground Storage Tank Program**

The attached proposed amendments are being amended into AB 1188 (Ruskin). The purpose of this language is to help small businesses and consultants to continue with UST remediation in the absence of reimbursement from the Water Board after they overspent the fund by \$80 million. The attached language, which represents consensus between CIOMA, WSPA and the Administration, does the following:

- Increases the UST fee charged on motor fuels stored in underground storage tanks from 1.4 cents/gallon to 2 cents/gallon (6 tenths of one cent/gallon increase) for two years.\*
- Provides language that allows the Water Board to unsuspend over 1300 UST claims in the "C" class (CIOMA members) that are currently suspended indefinitely. This action has barred them from trying to get third-party bridge financing to assist in their continuing remediation obligations.
- Allows the 1300+ suspended claimants to file for reimbursement of bridge financing costs, within specified parameters. This is compromise language developed by the Water Board and accepted by CIOMA.
- Requires the Water Board to post the results of an independent audit they are having done on the UST Fund and program on their web site.
- Moves a program for school locations (created in AB 2729-'07 (Ruskin)) from accessing funds from the "D" category account, to accessing funds in the general claims account.\*

In addition to this language a comprehensive overhaul of the UST program is underway which will result in significant savings to the Fund over time. Actions being considered include:

- Removal of claims "deadwood" from the program
- More efficient and timely closure of UST sites
- More efficient remediation practices approval and payment
- More transparent claims processing status
- Less reporting
- More standardized UST remediation practices

However, the 1300 claimants currently suspended (i.e. claims not likely to be processed for 4-6 years) cannot wait for that long - or even 6 more months - to cover obligations already undertaken but not reimbursed. The proposed amendments will assist those small business owners to avoid bankruptcy, default, layoffs and other economically damaging alternatives.

We will need your support and assistance with rule waivers to get this measure passed by the end of the session.

---

\* Provisions noted with an asterisk (\*) are included at the request of the Western States Petroleum Association (WSPA). CIOMA agrees to these amendments if the entire package of provisions is enacted.

Proposed amendments – Underground Storage Tank Fund Program  
August 31, 2009

---

The following amendments are proposed as a package of amendments to address an \$80 million shortfall in the state's Underground Storage Tank Fund Program. Included with these amendments is a memo prepared by California Independent Oil Marketers Association explaining the need for the amendments and what the amendments are intended to address. The amendments are presented by topic area they are related to.

All amendments are to the state Health & Safety Code.

Increasing the fee by 6 mills, from 1.4¢/gallon to 2¢/gallon for two years

25299.43. (a) To implement the changes to this chapter made by the act adding this section, and consistent with Section 25299.40, effective January 1, 1995, every owner subject to Section 25299.41 shall pay a storage fee of one mill (\$0.001) for each gallon of petroleum placed in an underground storage tank which the person owns, in addition to the fee required by Section 25299.41.

(b) On and after January 1, 1996, the storage fee imposed under subdivision (a) shall be increased by two mills (\$0.002) for each gallon of petroleum placed in an underground storage tank.

(c) On and after January 1, 1997, the storage fee increased under subdivision (b) shall be increased by an additional three mills (\$0.003) for each gallon of petroleum placed in an underground storage tank.

(d) On and after January 1, 2005, the storage fee increased under subdivision (c) shall be increased by an additional one mill (\$0.001) for each gallon of petroleum placed in an underground storage tank.

(e) On and after January 1, 2006, the storage fee increased under subdivision (d) shall be increased by an additional one mill (\$0.001) for each gallon of petroleum placed in an underground storage tank.

*(f) On and after January 1, 2010 the storage fee increased under subdivision (e) shall be increased by an additional six mills (\$0.006) for each gallon of petroleum placed in an underground storage tank. This increase would be effective until December 31, 2012, at which time the fee would revert back to the fee effective under 25299.43 (e).*

(g) The fee imposed under this section shall be paid to the State Board of Equalization under Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code in the same manner as, and consistent with, the fees imposed under Section 24299.41.

(h) The State Board of Equalization shall amend the regulations adopted under Section 25299.41 to carry out this section.

---

Moving finance of the Schools Program (AB 2729-'07 (Ruskin)) from the "D" category account to the general claims account

Amend Health and Safety Code Section 25299.50.3 as follows:

(a) For purposes of this section "school district" means a school district as defined in Section 80 of the Education Code, or a county office or education.

(b) The School District Account is hereby created in the Underground Storage Tank Cleanup Fund, for expenditure by the board to pay a claim filed by a district that is a school district and has a priority based on paragraph (4) of subdivision (b) of Section 25299.52.

Notwithstanding Section 25299.52, in the 2009-10, and 2011-12 fiscal years, the board shall pay a claim filed by a district that is a school district and has a priority based on paragraph (4) of subdivision (b) of Section 25299.52 only from funds appropriated from the School District Account.

(c) (1) The sum of ten million dollars (\$10,000,000) per year shall be transferred, in the 2009-10, 2010-11, and 2011-12 fiscal years, from the Underground Storage Tank Cleanup Fund to the School District Account, for expenditure upon appropriation by the Legislature for the payment of Claims filed by a district that is a school district with a priority based on paragraph (4) of subdivision (b) of Section 252299.52. *The ten million dollars shall be transferred to The School District Account prior to allocating the remaining available funds to each priority ranking in paragraphs (b) (1), (2), (3) and (4) of Section 252299.52.*

(d) Funds in the School District Account that are not expended in the 2009-10 or 2010-11 fiscal years shall remain in the School District Account. Unencumbered funds remaining in the School District Account on July 1, 2012, shall be transferred to the Underground Storage Tank Cleanup Fund. Encumbered funds remaining in the School District Account on July 1, 2012, shall remain in the School District Account. Those encumbered funds remaining in the School District Account on July 1, 2012, *shall be reallocated back into the Underground Storage Tank Cleanup Fund* liquidated on or before June 30, 2014.

---

Allowing unsuspension of suspended claims; allowing "bridge financing" as a claimable expense

25299.57 Maximum payment of costs by board allowed; reimbursement

(i) (1) *To the extent funding is available, the board shall pay, within 60 days from the date of receipt of an invoice of expenditures, all costs specified in the work plan developed pursuant to Section 25296.10, and all costs that are otherwise necessary to comply with an order issued by a local, state, or federal agency.*

(2) *If corrective action costs, third party compensation costs, or regulatory technical assistance costs submitted by a claimant are approved for reimbursement by the board but funding is not available for payment to the claimant at the time of approval, the board shall reimburse carrying costs incurred by the claimant after November 7, 2008, but before June 30, 2010, subject to all of the following limitations:*

(A) *The reimbursement for carrying costs shall not exceed the carrying costs actually incurred by the claimant from the date the corrective action costs, third party compensation costs, or regulatory technical assistance costs are approved for payment by the board until the date that a check for the reimbursement request is issued by the Controller.*

(B) *The reimbursement for carrying costs shall not exceed an amount equivalent to a maximum annual percentage rate of seven (7) percent as applied to the amount approved for reimbursement and for the period calculated pursuant to subparagraph (A).*

(C) *The board shall not reimburse carrying costs that amount to less than \$100 per reimbursement request.*

(D) *The board shall not reimburse carrying costs that exceed nine (9) percent of the total amount of costs approved for the reimbursement to which the carrying costs apply.*

(E) *Claimants may submit a request for reimbursement of carrying costs after receipt of fund reimbursement for the corrective action costs, third party compensation costs, or regulatory technical assistance costs to which the carrying costs apply. Additional carrying costs associated with a reimbursement request for carrying costs submitted pursuant to this subparagraph are not eligible for payment.*

(F) *For the purposes of this paragraph, "carrying cost" means the interest expense incurred by a claimant to acquire money to pay costs approved for reimbursement by the board but for which reimbursement is delayed because funds are unavailable.*

(G) *This paragraph shall not apply to tank owners or operators in the category set forth in paragraph (4) of subdivision (b) of Section 25299.52.*

(j) (1) *The board shall pay a claim of not more than three thousand dollars (\$3,000) per occurrence for regulatory technical assistance . . .*

#### 25299.62 Time limit for payment of claims

*A\_If funding is available, all reimbursement requests that are approved shall be forwarded to the Controller within 10 days from the date of approval, for payment by the Controller. If a reimbursement request is approved but not forwarded to the Controller because funding is unavailable at the time of approval, the claimant may seek reimbursement of carrying costs actually incurred for the approved amount pursuant to paragraph (2) of subdivision (i) of Section 25299.57.*

---

#### Publication of audit results

25299.51.1 *Within ninety (90) days of completion of any independent program or fiscal audit of the fund, the board shall post the results of the audit on the board's website.*