



NORTH CAROLINA
Environmental Quality

ROY COOPER

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MEMORANDUM

Date: May 14, 2020

To: UST Staff

From: Z. Vance Jackson, Jr., UST Section Chief
William F. Hunneke, Trust Fund Branch Head
Scott Bullock, Corrective Action Branch Head

ZVJ
JSB W.F.H.

Re: Modification of the Pre-approval Process

Policy Description

The Underground Storage Tank (UST) Section modified the pre-approval process on September 1, 2004, October 1, 2004, December 20, 2005, and February 1, 2019. These modifications created the present two-step process which gives Corrective Action Branch (CAB) incident managers pre-approval authority over scope of work task authorizations and the Trust fund Branch (TFB) staff pre-approval authority over reasonable and necessary costs. The purpose of this modification is to allow CAB only pre-approvals for tasks that are not related to corrective action and a CAB and TFB collaborative review of pre-approvals related to corrective action.

Pre-approval versus Reimbursement

Pre-approvals of some tasks are required by NC G.S. 143-215.94E(e2) and defined by 15A NCAC 02P .0402(b)(9). Pre-approvals are not required for emergency response (as determined by local emergency officials), UST closures without a previous release, initial abatement activities completed within 90 days of release or discharge, and for assessment activities up through the Limited Site Assessment (LSA/risk determination at sites with no previous releases/incident number).

Pre-approval 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 to protect receptors, (2) the associated costs are reasonable estimates of what the tasks should cost if they are completed fully, properly, and accurately, (3)



Costs above the estimate must be justified with a Change Order approved by the incident manager and supervisor and/or TFB, and (4) Non-fraudulent claims for actual costs incurred for completing preapproved tasks will be reimbursed.

Since NC G.S. 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 remediation, 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 required to cost-effectively assess or clean up a release, and pre-approval 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, the incident manager, and/or TFB may agree that 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 clean up 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.

How the Modified Pre-approval Process Will Work

Pre-approvals are required for all post Limited Site Assessment (LSA)/risk determination activities and certain pre-LSA activities listed within this document and the Reasonable Rate Document (RRD). Upon receipt of LSA for a new incident (first release at a site), the incident manager will determine the risk of the site and determine if further assessment and remediation of the incident is necessary. If further assessment and remediation is required, all work conducted after the LSA must be preapproved by the UST Section to preserve the RP's eligibility for trust fund reimbursement. If the site is ranked above the Trust Fund Funding Bar after review of the LSA, the incident manager will request a Comprehensive Site Assessment (CSA) in accordance with 15A NCAC 2L .0407.

In order to address issues related to streamlining the pre-approval process, increase efficiencies, resolve conflict between the CAB and TFB related to review of reports and task authorizations, and return project oversight back to purview of the CAB, the UST Section hereby implements a pre-approval process where CAB will review specific pre-approvals related to CSAs, CSA Addendums, and routine monitoring. The CAB and TFB will collaboratively review and approve of pre-approvals related to corrective action. RPs and ESPs submit electronic task authorization packages to CAB Regional Supervisors/Incident Managers for all post LSA actions.

CAB Only Pre-approvals

Tasks for CAB only pre-approvals will be reviewed and approved by the CAB Incident Manager and Supervisor in a two-part task authorization process that requires the Incident Manager to review and approve of tasks and costs and the Regional Supervisor to review and approve of the tasks and costs. Once the CAB only pre-approval is reviewed and approved by the CAB Incident Manager and Regional Supervisor, the Incident Manager will provide the approved pre-approval and supporting documents to the TFB. The Incident Manager will then send the signed pre-approval to the RP/ ESP. The following tasks fall under the CAB only pre-approvals:

- Additional Risk Assessment Investigation/Report: This is the same assessment that was outlined in the previous pre-approval policy and covers those sites that did not proceed through the LSA Phase II and are now out of the required time to complete one. There is a \$25,000 limitation before dual CAB/TFB approval is required. The purpose of this work is to try to determine the ground water flow direction prior to initiating the CSA. If ground water flow is known because of information from other sites in the area or due to the site proximity to a determining water body, then this work can be captured in the CSA.
- CSA: The delineation of the soil and groundwater plume to the applicable standards as outlined in the 2L Rule. There is a \$40,000 limitation before dual CAB/TFB approval is required.
- CSA Addendum: This is not work to complete a deficient CSA but rather to address those sites that have been reactivated as a result of the funding bar stoppage of work and it is apparent from the monitoring that the plume has migrated outside the previous monitoring network therefore requiring additional assessment prior to the initiation of a Corrective Action Plan (CAP) not to exceed \$25,000. If the site currently has a CAP and additional assessment is necessary, then such work falls under the system enhancement task and requires dual CAB/TFB approval.
- Updated Receptor Survey: Only those that are in accordance with the Reasonable Rate Document (RRD) prior to the initiation of a CAP. Surveys conducted as part of CAP activities are considered part of the CAP and require dual CAB/TFB approval.
- Routine groundwater monitoring: This covers routine monitoring pre-CAP and may include the installation of one or two monitoring wells as the limit will allow and is limited to \$5000 before dual CAB/TFB approval is required.
- Notices of Residual Petroleum (NRPs).
- Public Notice.
- Modeling/Plume Stability Analysis: If conducted as part of the assessment or CSA to remove potential receptors and prepare for the CAP or site closure without the need of a CAP.
- Permits for Certification of Disposal, Land Application, and Agreements for Land Application.
- Monitoring well abandonment after closure of sites.
- Any site for which there is a CSA on file but for which the corrective action process has not been initiated must be limited to no more than four routine sampling events, not to exceed two years before dual CAB/TFB approval is required. Note, the four routine sampling events applies after the CSA has been submitted and any sampling done prior to submittal of a CSA would fall under CAB Only routine groundwater monitoring. According to CAB Guidelines, the incident manager must request the initiation of the CAP process for any sites ranked above the funding bar once the CSA has been completed.

CAB Only Pre-Approval Resolution Procedures

The TFB staff may review the CAB only task authorization (TA) and if they find what they believe to be unreasonable costs or typographical discrepancies, TFB staff should make these findings known to the Trust Fund Branch Head, who will discuss the findings with the Corrective Action Branch Head and Section Chief who will resolve any outstanding issues. The method will assist the UST Section in developing additional guidance and refining existing guidance that will make the program more efficient and cost-effective.

CAB Only Pre-approval Process Instructions

Please see the Trust Fund Instructions for completing an ePATA (electronic pre-approval) form.

1. All documents must be named in the following manner:
 - NO SPECIAL CHARACTERS! (i.e. #, !, @, \$, %, etc.)

- Spaces and hyphens are acceptable characters
 - No dates (unless hyphenated)!
 - 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)
 - Correct: “12345-3 Leaky Tank Mart 5” / Incorrect: “12345-3 Leaky Tank Mart #5”
2. The Incident Manager must ensure that the “Directed- CAB Only” dropdown is selected in the ePATA.
 3. The Incident Manager reviews and approves of the requested work in the CAB Only ePATA and is ready to submit to their Regional Supervisor for review.
 4. This new process will take place within each Region’s SharePoint page on the UST SharePoint Site. For example, an Asheville Regional Office Incident Manager will start the process by navigating to: https://ncconnect.sharepoint.com/sites/deq/dwm_ust/SitePages/Asheville.aspx All steps laid out below will take place on that page as well for the Asheville Regional Office. Each Regional Office must perform this new process within their own UST-CAB-Regional Office SharePoint page.
 5. Incident Manager uploads new CAB Only ePATA and supporting documents to the “Supervisor Review Required” queue by selecting “Upload” > “Files” OR by the “drag and drop” method.
 6. Simultaneously and automatically, Incident Manager will receive email notification that their CAB Only ePATA has been submitted for their Regional Supervisor’s review and their Regional Supervisor will receive email notification that a new CAB Only ePATA has been submitted for their review.
 7. Regional Supervisor navigates to the CAB Only ePATA in the “Supervisor Review Required” queue and opens the document by selecting the “Open in app” option.
 8. Regional Supervisor reviews the CAB Only ePATA, edits the document as necessary, saves edits when complete, and closes the document.
 9. (a). If the Regional Supervisor approves all tasks in the CAB Only ePATA and does not need to discuss anything with the Incident Manger, the Regional Supervisor changes the “ePATA Status” to “Supervisor Review Completed.” This will trigger an email notification to the Incident Manager indicating that their CAB Only ePATA has been approved by their Regional Supervisor and is ready for their *final* review. The Regional Supervisor will be copied on this email notification.
 9. (b1). If the Regional Supervisor feels that a discussion is needed with the Incident Manager to gain clarity or reach a consensus, the Regional Supervisor changes the “ePATA Status” to “Under Supervisor Review.” This will trigger an email notification to the Incident Manager indicating that their CAB Only ePATA requires a discussion with their Regional Supervisor. The Regional Supervisor will be copied on this email notification.
 9. (b2). If a consensus is not reached between the Regional Supervisor and the Incident Manager, then the CAB Branch Head will meet/have a conference call to resolve the issues and reach a consensus.

9. (b3). When all parties have reached a consensus, the Regional Supervisor changes the “ePATA Status” to “Supervisor Review Completed.” This will trigger an email notification to the Incident Manager indicating that their CAB Only ePATA has been approved by their Regional Supervisor and is ready for their *final* review. The Regional Supervisor will be copied on this email notification.
10. Incident Manager is responsible for changing the ePATA Status to “ePATA Process Completed” for the ePATA and all supporting technical documents after downloading/saving a local copy to sign and return to consultant. Incident Managers should perform this step ONLY when they intend to sign and send to the consultant.
11. Once the ePATA Status for the ePATA and all supporting documents has been changed to “ePATA Process Completed,” the documents will automatically be moved from the “ePATA CAB Only” library to the “CABO TAs for TFB” library.
12. TFB staff will access the documents in the “CABO TAs for TFB” library through the “CABO TAs for TFB” library view located on the UST ePATA Processing SharePoint page.
13. TFB staff are responsible for removing the files from the “CABO TAs for TFB” library.

CAB and TFB Dual Pre-approval

Tasks for CAB and TFB collaborative review of pre-approvals will be jointly signed by the CAB Incident Manager and TFB staff in the two-part task authorization process that requires the both the CAB Incident Manager and TFB staff to review and approve of tasks and costs. Once the pre-approval is reviewed and approved by the CAB Incident Manager and TFB staff, the pre-approvals will be processed as indicated under CAB and TFB Dual Pre-approval Process Instructions noted below. The following corrective action tasks fall under the CAB and TFB collaborative review:

- Aggressive Fluid Vapor Recovery (AFVR) (except first event in case of emergency).
- Mobile Multi-Phase Extraction (MMPE) (except first event in case of emergency).
- Free Product Recovery (except in the first case of AFVR or MMPE for an emergency).
- Use of Oxygen Emitters, socks, booms, etc.
- Engineered Systems.
- Use of Laser-Induced Fluorescence (LIF) or other high-resolution studies.
- Water Line Connections.
- Point of Entry (POE) Treatment Systems.
- Relocation/Re-drilling Water Supply Wells.
- Soil Excavation associated with tank removal, after the 90-day initial abatement action (IAA) regulatory limit, as corrective action, or sites with previous release.
- Tasks that require bidding.
- Pre-Assessments related to corrective action or removal of USTs with previous release.
- Assessment and or monitoring in excess of the limits listed in the CAB Only Section.
- Corrective Action Performance Reports.
- Corrective Action Plans including Feasibility Study, Design, and Record of Decision.
- System Enhancement Recommendations.
- New Technology Cleanup Plan.

- Innovative Technology.
- Soil Cleanup Plan.
- Non-Discharge Permit Report.
- Publicly Owner Treatment Works (POTW) Monitoring Report.
- National Pollutant Discharge Elimination System (NPDES) Monitoring Report.
- Remedial Services (System Operation and Maintenance).
- Monitoring well reduction abandonment. These are monitoring wells that are agreed as no longer needed and can be abandoned. But, most specifically, abandonment of monitoring wells in those areas in which monitoring well permit fees are being charged.
- Injection Permits.
- Discharge Permits.
- Permit Fees.
- Coastal Area Management Act (CAMA) Permits.
- County Monitoring Well Permits.
- Disposal Services Requiring Bids.
- Site Repair.

CAB and TFB Dual Pre-approval Process Instructions

Please see the Trust Fund Instructions for completing an ePATA (electronic pre-approval) form.

1. All documents must be named in the following manner:
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 - Spaces and hyphens are acceptable characters
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 - For ePATAs: (ex. 12345-3 Leaky Tank Mart)
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 - For Supporting Documents like a SOW: (ex. 12345-3 Leaky Tank Mart SOW)
 - Correct: “12345-3 Leaky Tank Mart”/Incorrect: “12345-3 Leaky Tank Mart #5”
 - The Incident Manager must include a justification for the requested work if not specifically indicated in supporting documents.
2. Incident Manager uploads new ePATA and supporting documents to the “ePATA – Submitted” queue on the UST ePATA Processing Center SharePoint page by selecting “upload” > “Files” OR by the “drag and drop” method.
3. TFB staff will see that a new ePATA has been submitted and is ready for their review.
4. TFB staff review the ePATA and collaborates with the CAB Incident Manager. If a consensus is not reached between the TFB staff and CAB Incident Manager refer to Pre-approval Resolution Procedures.
5. 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.

6. Following TFB review, the Incident Manager will receive an email notification that the ePATA has been reviewed/processed.
7. Incident Manager is responsible for marking ePATA status “completed” and saving to SharePoint before downloading/saving a local copy to sign and return to consultant. Incident managers should perform this step ONLY when they intend to sign and send to the consultant.

CAB and TFB Dual Pre-approval Resolution Procedures

The CAB and TFB will collaborate to establish project consensus. For those CAB and TFB Dual ePATAs where the CAB and TFB do not agree on the proposed scope of work, (does not include typographical errors) the following procedures shall be followed to resolve any disagreements concerning proposed scope of work:

- The TFB reviewer shall first contact the incident manager and discuss proposed cuts to the CAB/TFB ePATA scope of work.
- The CAB Incident Manager shall provide technical justification for the proposed scope of work as well as file information to the TFB reviewer (note, all recent reports are required to be scanned and submitted for inclusion into Laserfiche and should be either located in Laserfiche or in the appropriate field on the s:drive awaiting uploading per the Laserfiche and File Management Procedures).
- If CAB and TFB staff do not agree on the proposed scope of work, then a meeting/conference call between the CAB Incident Manger, CAB Regional Office Supervisor, CAB Branch Head, TFB reviewer, and TFB Branch Head must be scheduled to resolve the issues 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/conference call) and render a decision concerning the proposed scope of work and determine the next course of action.