



CORRECTIVE ACTION FUND PAYMENT PROCESS

GENERAL INSTRUCTIONS

This guidance provides procedures for owners, operators and remediation contractors seeking reimbursement from the Corrective Action Fund (CAF).

The Department must pre-approve all work in order to be eligible for reimbursement from the Corrective Action Fund. Prior to starting any Minimum Site Assessment or Phase 1-5 work, a workplan must be submitted directly to the PSTB Project Manager for approval. Work shall be approved through a workplan approval letter. Verbal approvals do not constitute formal approval of a workplan. This guidance covers the application and payment procedures for both Responsible Party and State Lead Sites.

All forms are available on the PSTB web site at:
<http://www.nmenv.state.nm.us/ust/caf.html>

Section 1: All Sites

Application and Payment Process [20.5.17.26 NMAC]: All applications for payment must be submitted to the Department within 90 days of written approval of a deliverable (acceptance letter). Owners, operators and contractors may request a 30 day extension to the 90 day deadline for good cause. Good cause is defined as unavoidable circumstances beyond the owner's, operator's or contractor's control. Requests for an extension must be submitted in writing within the 90 day period for submitting an application for payment.

All applications for payment will be reviewed in the order received and the Department shall, within 60 days of receipt, either:

- pay the owner, operator or contractor for all eligible costs once the application is determined to be complete; or
- reject the application and notify the owner, operator or contractor in writing for the reasons of the rejection

Subrogation [20.5.17.27 NMAC]: Insurance information must be provided with the first application for payment. The Department has the right of subrogation to any insurance policies in existence at the time of the release to the extent of any rights the owner or operator of the site may have had under that policy.

Administrative Review [20.5.17.28 NMAC]: An owner, operator or contractor aggrieved by a decision made by the Department may obtain review of the decision. For purposes of claim reimbursement, the owner, operator or contractor may submit a letter to the Bureau Chief providing reasons why payment should be made to the owner, operator or contractor. The Bureau Chief will review the administrative request and either deny or approve payment from the Corrective Action Fund.

Section 2: Responsible Party Lead Sites

Means Test Request (for Minimum Site Assessment Work) [20.5.17.20 NMAC]: Prior to starting any Minimum Site assessment (MSA) work, an owner or operator responsible for paying the first ten thousand dollars of the MSA costs may request that the first ten thousand dollars be paid from the fund. This request must be made before or with submission of the MSA workplan. The application shall include: (1) a letter explaining why the owner/operator is unable to afford to pay all or a portion of the initial ten thousand dollar cost of an MSA; (2) copies of the owner/operator's federal tax returns for the immediately preceding two years and (3) any additional financial information that will assist the Department in determining whether the owner or operator is unable to pay

Designation of Representative [20.5.17.19 NMAC]: Subject to approval from the Department an owner or operator may designate a representative to facilitate compliance with corrective action fund requirements. A person may also request to be designated as a representative by the Department in the event the owner/operator is incapable of both directing required corrective action and assigning rights to a designated representative. Anyone requesting to designate or be designated as a representative may contact the PSTB Project Manager for the site and request the designation of representative form or submit a letter to the Department that includes the owner identification number; facility identification number; release identification number, reason for the requested designation of representative, and proposed representative's name, address, e-mail address, telephone number and federal tax identification number.

The designation of representative does not waive owner or operator responsibility or liability.

Compliance Determination (for Phase 1-5 work) [20.5.17.11 through 13 NMAC]: A compliance determination must be made for any Phase 1-5 work in order to be eligible for payment for the Corrective Action Fund. The Department recommends that the

compliance determination be requested prior to conducting Phase 1-5 work. No compliance determination is necessary for payment of MSA costs exceeding the deductible.

The Request for Compliance Determination (RCD) form must be completed by the tank owner or operator. The RCD form includes information that is required by 20.5.17.13 NMAC.

The completed RCD form must be submitted to the Program Manager of the Prevention and Inspection Program.

Claims submitted prior to a compliance determination will not be processed.

Contents of Application for Payment at Responsible Party Lead Sites

[20.5.17.24 NMAC]: Application for Payment must be filled out completely and accurately in order to be considered for reimbursement from the Corrective Action Fund.

The owner, operator or contractor must include one original and one copy of the following documents in the Application for Payment:

1. Claim Form:

The Application for Payment must include a completed Claim Form that includes the name of the owner at time of release; the name of the operator at the time of release, and the name of the responsible party at the time of release in the green highlighted section of the Claim Form. The Claim Form requires the following information:

Part I: Applicant Information

- Name (must be a tank owner or operator)
- Address
- E-mail address
- Claim contact name
- Phone number
- Social Security or Federal Tax Id Number:

Part II: Facility Information

- Name of site
- Address
- Site number
- Facility number
- Phase of corrective action being claimed
- UST or AST
- Workplan approval date
- Amount of workplan approval
- Workplan ID number

- Exact name of deliverable
- Estimated date of deliverable
- Invoice number
- Insurance information
 - Indicate the applicant's insurance if any and attach applicant's insurance policy with first claim submittal.

Part III: Payee Information

- Name
- Mailing address
- Phone number
- E-mail address
- Federal Tax ID #
- Nature of interest in site

2. Affirmation and Assent to Audit Applicant and Invoicing Contractor Form:

The affirmation form must be submitted with the first application for payment of corrective action costs for each workplan. An owner or operator who has properly submitted the affirmation form need not submit the form with future claims **unless** the first application has changed or the Department has modified the scope of work or the budget of the workplan. **Please note that the affirmation document must not contain any alterations, corrections or erasures.**

The affirmation and assent to audit applicant and invoicing contractor form must contain:

- Original signatures of the owner or operator at time of release
- Contractor performing the work
- Title
- Date
- Notary signature and expiration of commission

3. Tank Owner/Operator(s) Disclosure Form and Affidavit

The disclosure form must be submitted with the first application for payment of corrective action costs for each workplan. An owner or operator who has properly submitted the disclosure form need not submit the form with future claims **unless** the first application has changed or the Department has modified the scope of work or the budget of the workplan. All information must be filled out completely and accurately in order to be considered for reimbursement from the Corrective Action Fund.

The Tank Owner/Operator disclosure form must contain the following information:

- Site name
- Site number where the release occurred
- Type of tank (AST or UST)

- Facility number
- Name of consultant/firm or entity performing work
- Address of consultant/firm or entity performing work
- Telephone number of consultant/firm or entity performing work
- Full names of all owners and operators of the tank(s)
- Names of each individual who is an officer, director, partner or key employee of the consultant firm or entity performing work
- Name of each individual and business entity that owns or controls the entity for which payment is being claimed
- Name of every business concern that is a partner or subsidiary of the entity that performed the work for which payment is being claimed
- Original signature of person with personal knowledge that the information contained in the disclosure form is true and accurate
- Date
- Title
- Original notary signature and expiration of commission

4. Consultant(s) Disclosure Form

The consultant disclosure form must be submitted with the first application for payment of corrective action costs for each workplan. The consulting firm who has properly submitted this form need not submit the form with future claims **unless** the first application has changed or the Department has modified the scope of work or the budget of the workplan. The consultant disclosure form must be filled out completely and accurately in order to be considered for reimbursement from the Corrective Action Fund.

The consultant(s) disclosure form must contain:

- Site name
- Site number where the release occurred
- Type of tank (AST or UST)
- Facility number
- Tank Owner/Operator's name
- Tank Owner/Operator's address
- Tank Owner/Operator's telephone number
- Name of firm or entity performing the correction action (invoicing consultant)
- Names of each individual who is an officer, director, partner or key employee of the firm or entity
- Name of each individual and business entity that owns or controls the firm or entity for which payment is being claimed
- Name of every business concern that is a partner or subsidiary of the entity that performed the work for which payment is being claimed

5. Cost Detail Form – Summary Sheet

The Cost Detail Summary sheet is used to summarize the claimed costs. The grand total must match the invoice amount. The summary sheet must specify the following:

- Site
- Site address
- Claim
- Type of application (MSA, Phase 1, 2, 3, 4, or 5)
- Deliverable identification(s) and description for each deliverable
- Dollar amount (must match invoice amount)
- New Mexico Gross Receipts Rate

6. Invoice

The owner, operator or contractor must submit an original invoice that specifies, at a minimum, the following information:

- Site name
- Workplan ID number
- Deliverable(s) being claimed
- Amount being claimed

7. Workplan approval letters, amendments and time extensions

All workplan approval letters, amendments and time extensions must be included in the claim packet.

8. Acceptance Letter

Acceptance letters issued by the Department indicate technical approval of the deliverable being claimed and must be included with the claim form in order to be considered for payment

Section 3: State Lead Sites

Contents of Application for Payment at State Lead Sites [20.5.17.25 NMAC]:

Applications for payment for State Lead Sites must be filled out completely and accurately in order to be considered for reimbursement from the Corrective Action Fund.

The contractor must submit one original and one copy of the following documents:

1. Claim Form

Payee Information

- Name
- Address
- E-mail address
- Phone number

Facility Information

- Name of site
- Site address
- Phase of corrective action being claimed
- Site number
- Facility number
- Contract number issued by the Department
- Contract expiration date

Workplan Information

- Workplan approval date
- Workplan ID number
- Deliverable identification(s)
- Estimated date of deliverable

Invoice Information

- Invoice number
- Invoice amount

Consultant Contact Information

- Name
- Mailing address
- E-mail address
- Phone number

2. Invoice

The contractor must submit an original invoice that specifies, at a minimum, the following information:

- Site name
- Workplan ID number
- Deliverable(s) being claimed
- Amount being claimed

3. Workplans, amendment, time extensions

All workplan approval letters, amendments and time extensions must be included in your claim packet.

4. Acceptance Letter

Acceptance letters issued by the Department indicate technical approval of the deliverable being claimed and must be included with the claim form in order to be considered for payment.