WHAT IS PAY-FOR-PERFORMANCE?

A pay-for-performance (PFP) or performance-based cleanup is one in which an environmental consulting firm has signed a contract which guarantees results for a fixed price over a specified period of time. The contracting firm is paid only when it has reduced contamination concentrations to levels dictated by the contract. Contracts are awarded following a bidding process which encourages competition and lowers costs. Cleanup goals specified in the contracts create financial incentives for contractors to complete cleanups as quickly as possible.

FOR EXAMPLE:

A contracting firm has agreed to remediate a site to a specified cleanup goal for $150,000. The firm will be paid percentages of this amount once certain milestones are achieved.

• Upon successful startup of the remediation system:	40% or $60,000
• After reducing contamination levels by 25%	5% or $7,500
• " " " " " 50%	10% or $10,000
• " " " " " 75%	10% or $10,000
• " " " " " 100%	10% or $10,000
• After maintaining contaminant levels at 100% reduction for 4 consecutive quarters:	25% or $37,500
	Total $150,000

BENEFITS OF PFP OBSERVED IN OTHER STATES

FOR UST OWNER/OPERATORS

- Quicker cleanups which reduce the possibility of contamination moving offsite and therefore prevent 3rd party claims
- Less costly cleanups that help to keep total site reimbursement below the trust fund cap.
- Better understanding of how effectively their properties are being cleaned up
- Quicker cleanups which enable property transactions or refinancing arrangements to occur sooner
- Cost savings to help preserve the trust fund so that it remains viable as a Financial Responsibility mechanism

FOR STATE REGULATORS

- Tremendous reduction in time-consuming paperwork (reimbursement claims, pre-approvals) thereby allowing technical staff to focus more on monitoring site assessments, achieving cleanups and identifying new releases
- More accurate projections of future cleanup costs be available for future needs

FOR THE ENVIRONMENT

- Accelerated cleanups resulting in greater protection of human health and the environment
- More cost-effective cleanups ensuring that more trust fund monies will be available for additional UST releases
- Increased focus of state regulators on achieving cleanup goals rather than on time-consuming pre-approval and reimbursement procedures

FOR THE TAXPAYING PUBLIC

- More efficient spending of tax money resulting in greater environmental protection without an increase in taxes
- Better understanding of the progress of a site cleanup because amount of contaminant is quantified
- Assurance that cleanups will be performed as quickly as possible thereby protecting water supply wells and other sensitive receptors

FOR ENVIRONMENTAL CONTRACTORS

- Increased profits as a result of having the freedom to manage staff and resources more efficiently
- Can use new remediation technologies
- Can address contamination more aggressively and thus reach payment milestones more quickly
- Reduces or eliminates costs associated with time consuming documentation, reporting, pre-approvals and claim preparation
- Receive payment from the trust fund more quickly

FOR LEGISLATORS

- Elimination of delays in payments to tank owner/operators/consultants reduces constituent complaints
- Assurance that public's money is being used to complete cleanups in a timely and cost effective manner
- Reduction in cleanup costs reduces the likelihood that taxes or tank fees will have to be raised

Prepared by the UST Section 9/5/00

POSSIBLE NEGATIVE CONSEQUENCES OF PFP

- When evaluating bids, regulators will have to determine if the lowest bid is reasonable before awarding contract. Fortunately, data has been compiled for PFP in other states over the past 4 years that can utilized by NC to compare bids. Also, proprietary software is available that can be used to effectively estimate cleanup costs.
- A PFP cleanup program may force contractors who cannot perform cost-competitive cleanups out of the cleanup business; contractors who are technically competent, efficient and well mannered will have an advantage in PFP.
- Given the financial incentives at stake some PFP contractors may be tempted to "cheat" by submitting falsified or invalid data in order to receive milestone payments. The state will have to be vigilant (i.e. collect split samples, confirm validity of laboratory analyses) to prevent any potential fraud.

COST SAVINGS

- In Florida, PFP has reduced cleanup costs by **66%.**
- In South Carolina, cleanup costs have been reduced by **50%.**
  - SC has 181 PFP sites (1st contract signed in 1997):
  - 6 sites -- closed out
  - 101 sites -- contamination reduced > 75%
- In Oklahoma, an estimated $4.7 million has been saved on 37 PFP sites
  - OK has 52 PFP sites (PFP initiated in 1996)
  - 14 sites -- closed out or in verification of 100% reduction

OPEN BIDDING IN SOUTH CAROLINA

	3 Bids Solicited Privately	*Bids Solicited Publicly Statewide*	*Price Difference*
# Cleanups	79	73	
# Bids Submitted	3 - 4	10 bids each site average	
Average Bid Price	$238,000	$108,000	**$129,400**

Prepared by NC UST Section 9/5/00

PROPOSED PFP IMPLEMTATION PROCESS

Following ratification of PFP by General Assembly:

1. Environmental engineering forms who desire to bid on PFP cleanups must become approved and certified by the UST Section as "Registered Environmental Consultants". Requirements for becoming an REC will be specified in temporary and permanent rules.

2. Owners and operators of assessed UST incidents may request the UST Section to bid out their sites for cleanup in accordance with proposed PFP rules.

3. Because the proposed legislation will exempt PFP contracts from state contracting requirements, the UST Section will post the sites for bidding on the Sections internet web site. Contractors wishing to bid on cleanups can request and receive site specific information and cleanup objectives from the Section.

4. The Section will evaluate bids using criteria specified in the new PFP rules. The lowest *qualified* bid (as defined in the rules) will be accepted.

5. A PFP cleanup contract that defines the payment milestones and cleanup schedule will be entered into by the environmental engineer, the tank owner/operator, and the State who will serve as the contract administrator. Terms of the contract include the posting of a payment and performance bonds by the engineer to help ensure that the terms of the contract are upheld and the cleanup objectives are met.

6. Trust Fund money will be obligated upon execution of the contract.

7. Payments will be made promptly upon validation that cleanup milestones have been achieved.

8. Contractors who fail to uphold the terms of the contract will forfeit their bonds and lose their REC certification.