



# **EPA FY2017 State Fund Review Recap**

Will Anderson & Cho-Yi Risher  
EPA's Office of Underground Storage Tanks

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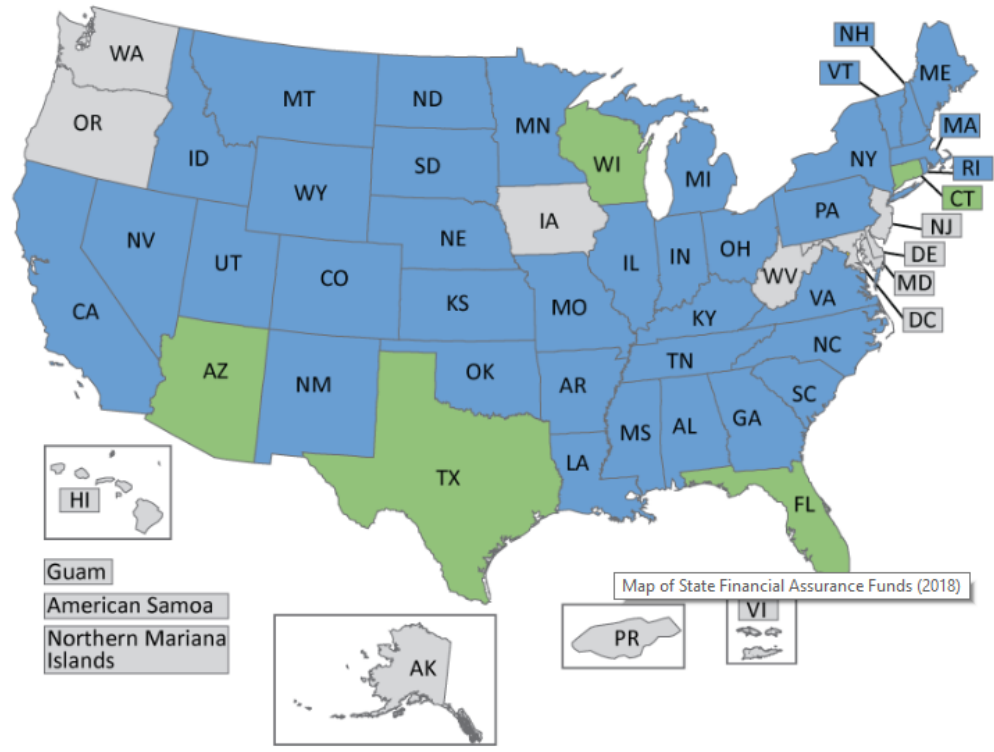
# Overview

- Background
- FY17 Review Summary Charts
- State Examples: Looking at Trends
- General Findings & Observations



# State Funds by Type

Map of State Financial Assurance Funds (2018)



- **Active Fund Pays for New and Past Releases**  
(36 states)
- **Phased Out Fund Pays for Releases Prior to Phase Out**  
(5 states)
- **No Fund That Provides All Federally-Required Coverage**  
(9 states, DC, and 5 territories)

<https://www.epa.gov/ust/state-financial-assurance-funds>



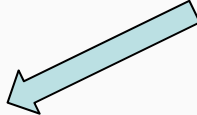
## EPA State Fund Review: How'd We Get Here?

- Under RCRA Subtitle I, states can set up state funds as a financial responsibility mechanism for their owners and operators as long as EPA grants approval of the fund (see EPA 1989's Final Guidance for Reviewing State Funds for Financial Responsibility)
- 2007: GAO: found that "several of these [state] funds may not have sufficient resources to ensure timely cleanups." GAO recommended EPA "Improve the agency's oversight of the solvency of state assurance funds to ensure that they continue to provide reliable financial responsibility coverage for tank owners...."
- January 2012: EPA issued guidance providing recommended procedures and factors for EPA regions:
  - To conduct state fund reviews; and
  - To work collaboratively with states to resolve any fund deficiencies; and
  - To implement Section 9004(c)(6) as amended by the Energy Policy Act of 2005, which authorizes EPA to identify a financially deficient state fund; engage in good faith collaborative efforts to remedy a fund's deficiency; and withdraw approval of a state fund as an acceptable FR mechanism if the state does not act in good faith to remedy its fund's deficiency.



## EPA State Fund Review: How'd We Get Here?

### 2012 EPA Guidance for Regional Office Review of State UST Financial Assurance Funds

- Three-part review process 
  - Part 1: Monitoring and Oversight
  - Part 2: Improving State Fund Soundness
  - Part 3: Withdrawing State Fund Approval

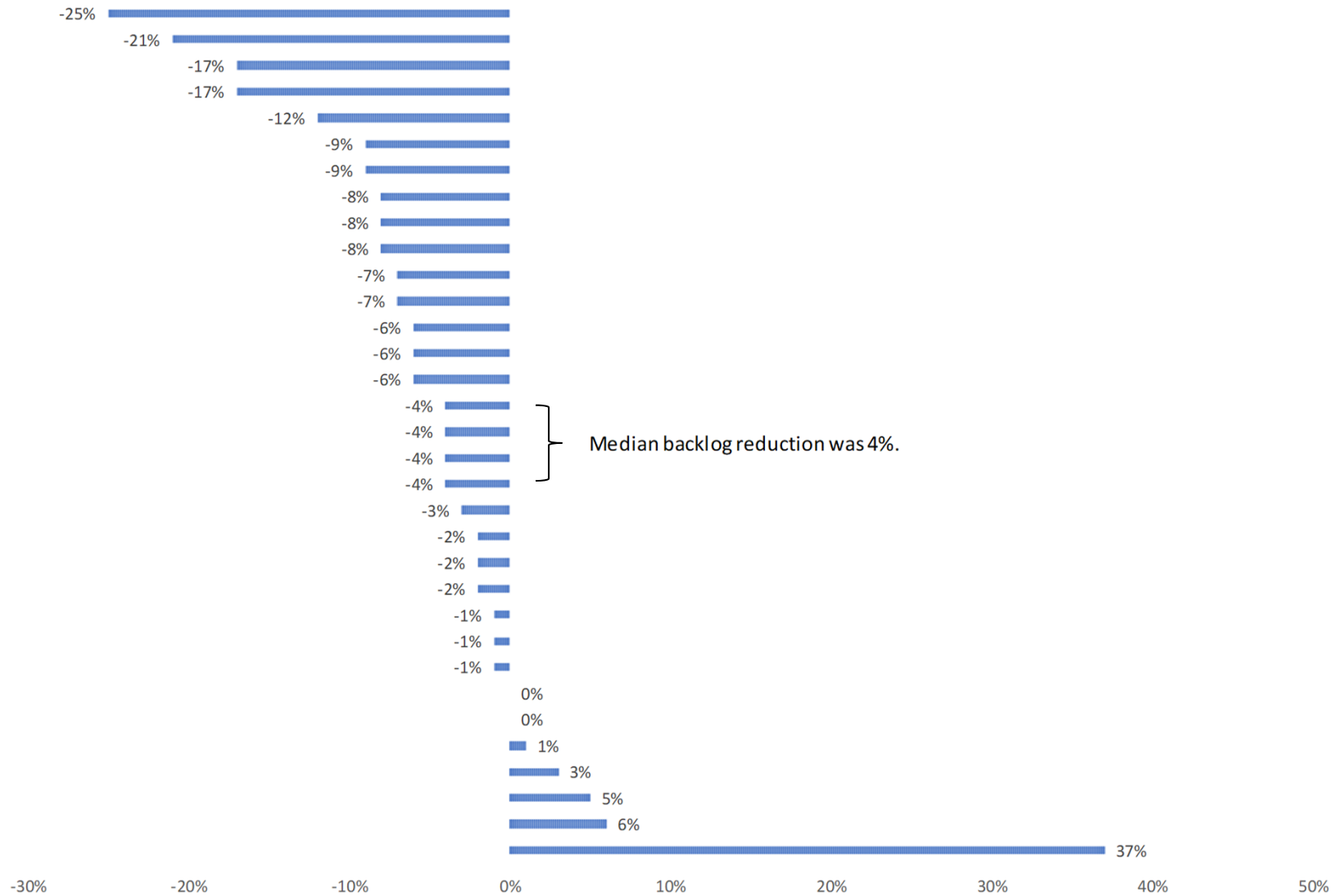
More information: <https://www.epa.gov/sites/production/files/2014-10/documents/state-fund-soundness-guidance1-26-2012.pdf>



## Background: How'd We Get Here?

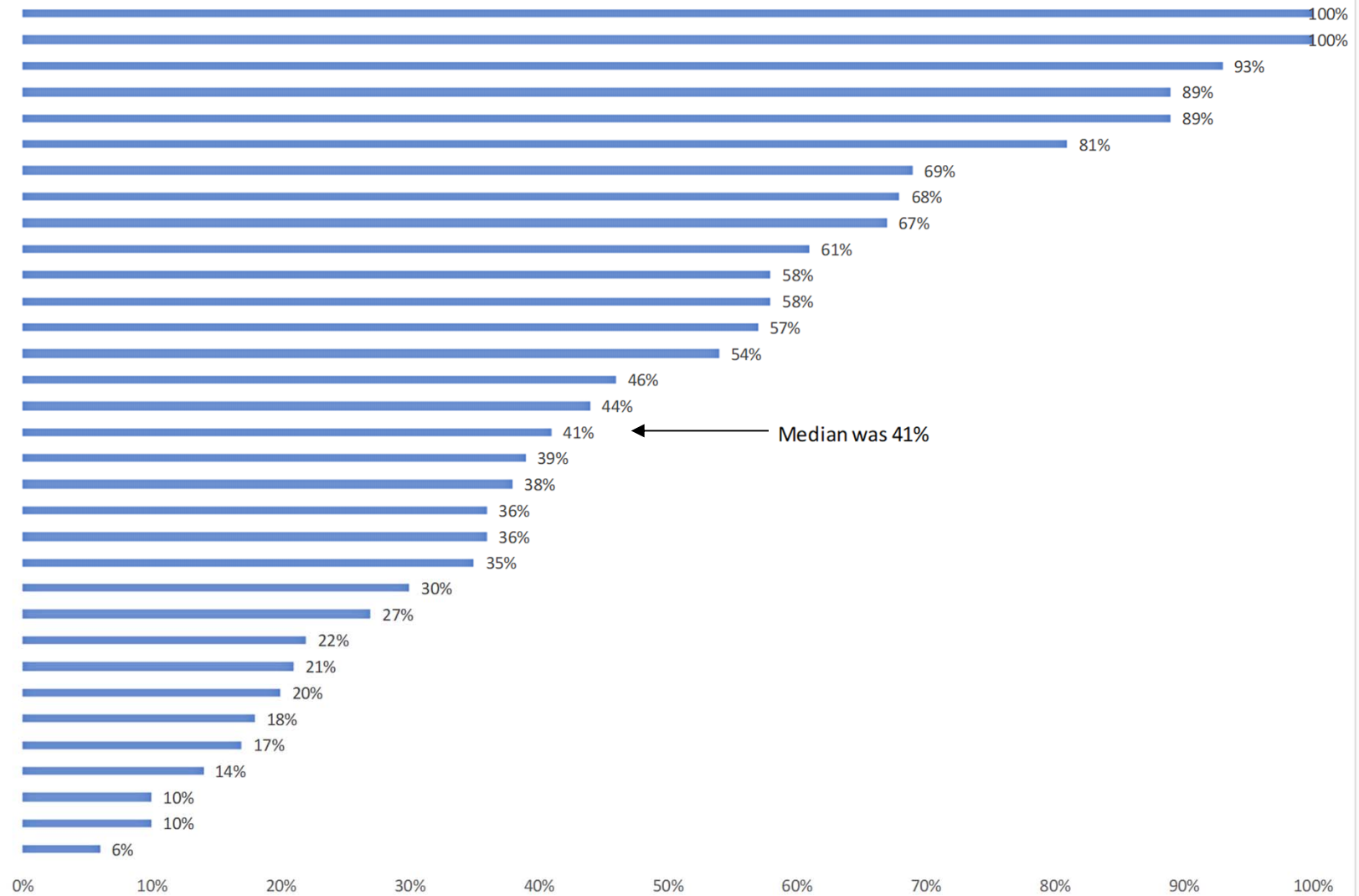
- Regions should review fund soundness annually
- Questions to assess for soundness review:
  - How quickly is the fund reducing its FRFE cleanup backlog?
  - Has the fund had enough resources to address its FRFE backlog?
  - Will the fund have resources to further reduce its FRFE backlog?
  - Are there any major or pending changes to the fund?
- OUST developed state fund soundness workbook, which has been in use since FY12 (with three years worth of data so data tracks back to FY10)

## NET CHANGE IN OPEN FRFE RELEASE CLEANUPS DURING FY17





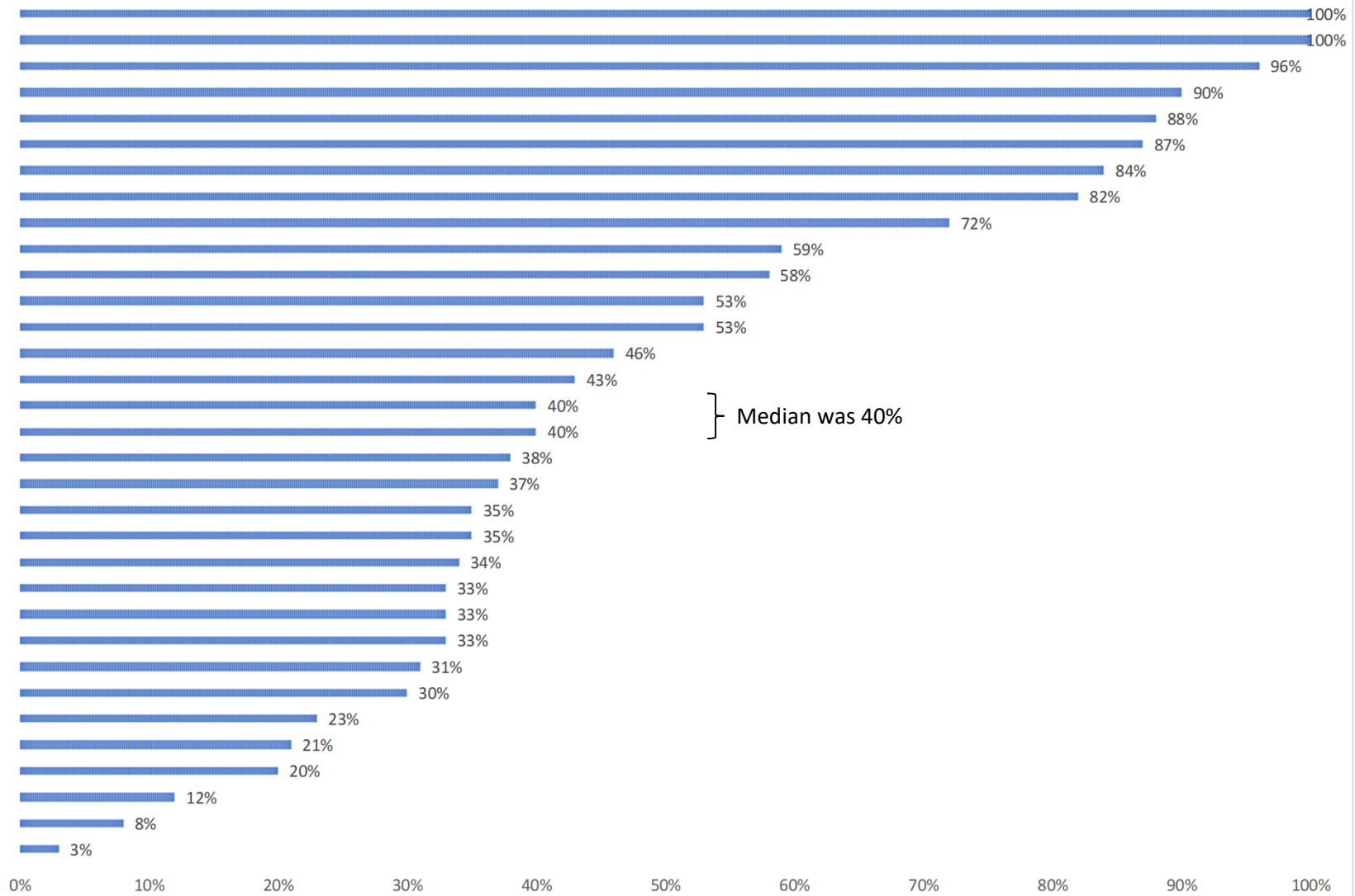
## % AVAILABLE FUND MONEY STATE SPENT IN FY17





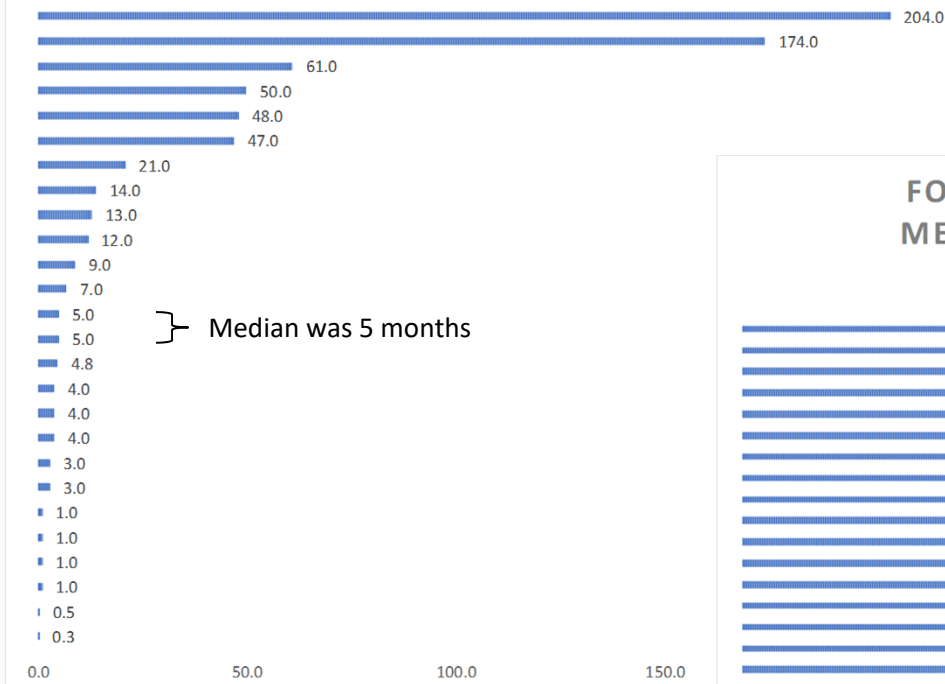


## % OPEN FRFE CLEANUPS THE FUND PAID IN FY17

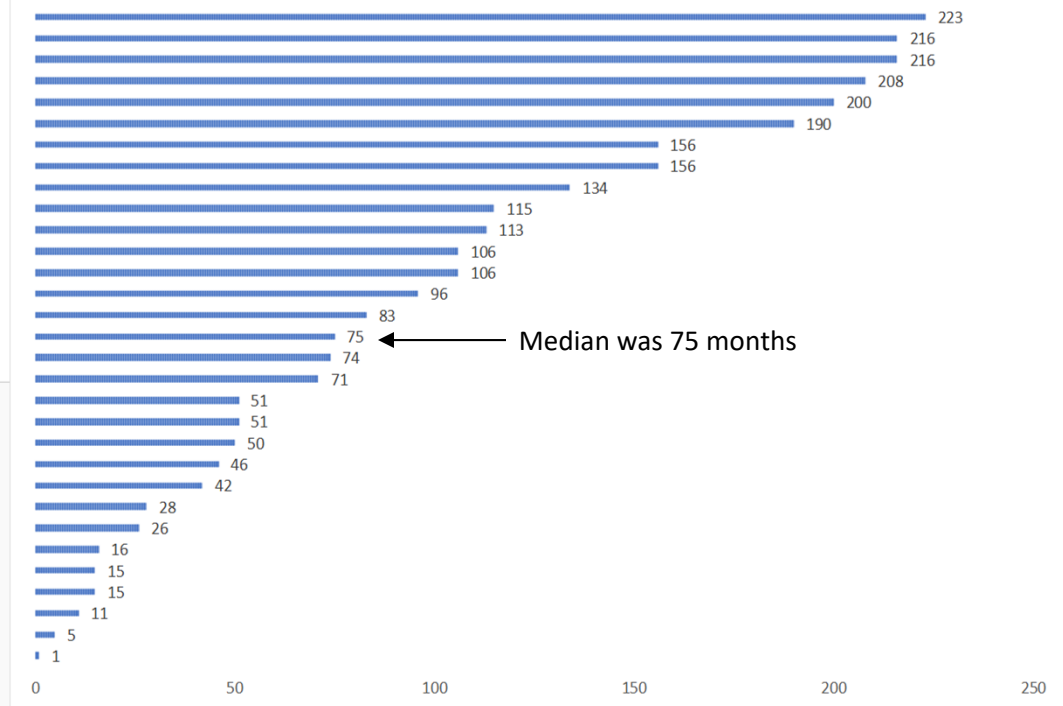




### FOR CLEANUPS STARTED IN FY17: MEDIAN TIME FROM RELEASE REPORT TO START OF REMEDIATION (MONTHS)



### FOR ALL CLEANUPS COMPLETED IN FY17: MEDIAN TIME FROM RELEASE REPORT TO COMPLETION (MONTHS)



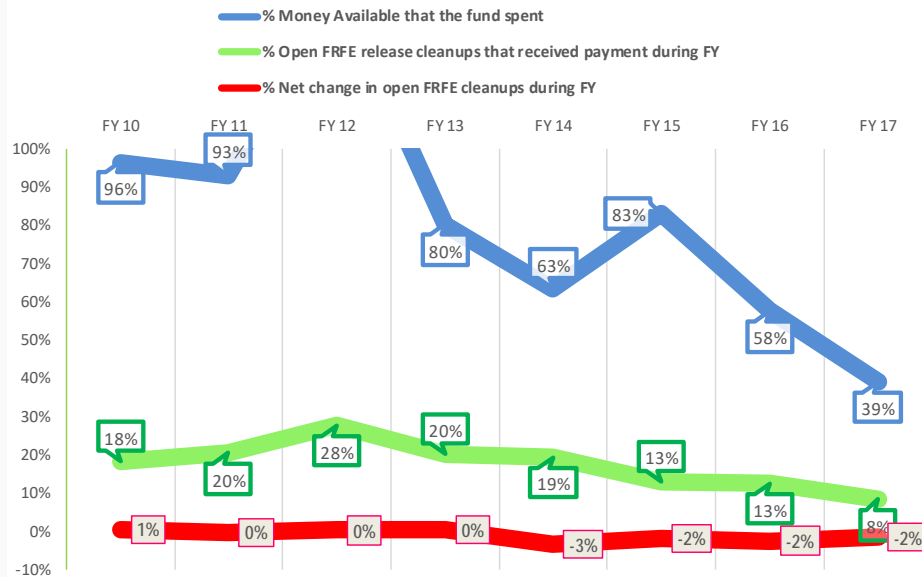


# State Examples: A Closer Look at Trends



# State Example 1

## 11. Backlog Reduction, Money Available and Spending



	FY15	FY16	FY17
Total income	\$106M	\$98M	\$125M
Total spending	\$85M	\$54M	\$47M
Unspent balance at EOY	\$21M	\$44M	\$77M

	FY15	FY16	FY17
	Average	Average	Median
For FRFE release cleanups that <u>started</u> during this FY: <i>Median</i> months from FRFE release report to start of fund approved remediation			3
For <u>all</u> FRFE release cleanups financed by the fund completed this FY: <i>Median</i> months from release report to completion of FRFE release cleanup	112	140	96

	FY15	FY16	FY17
Unpaid claims	\$11M	\$7.6M	\$8.7M



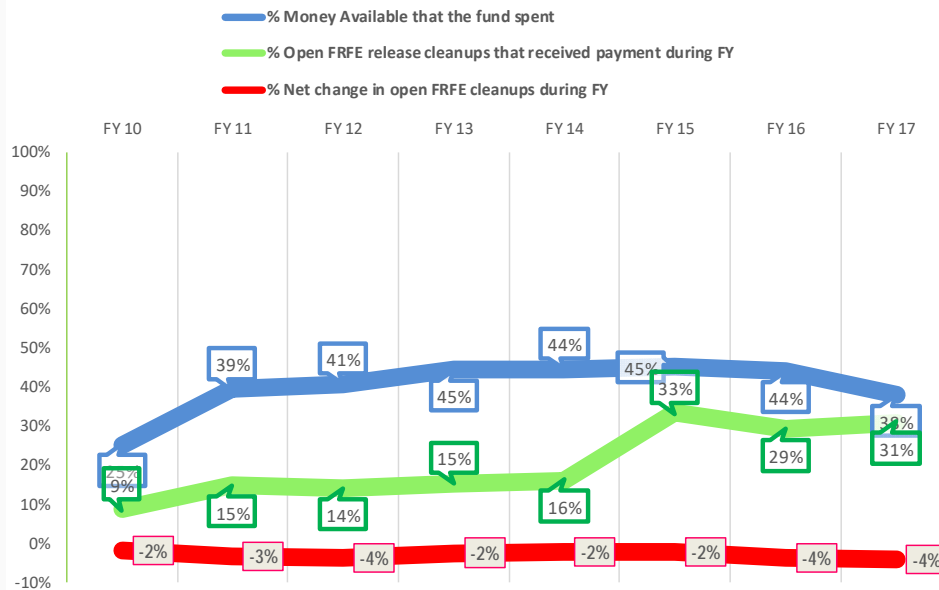
# State Example 1

- Questions from trend review:
  - Percentage of spending dropped. Why?
  - Few sites getting payment. Why?
  - Caseload reduction has been flat. How to do more?
- Opportunities for EPA/State engagement:
  - Select a representative sample of sites to see which sites received or did not receive payment
  - For the sites that did not, review case file to see why
  - For sites that did, track payments over time to understand whether there are other barriers hindering progress at site
  - State-lead sites get limited funding to make progress on sites



# State Example 2

## 11. Backlog Reduction, Money Available and Spending



	FY15	FY16	FY17
	Average	Average	Median
For FRFE release cleanups that <u>started</u> during this FY: <i>Median</i> months from FRFE release report to start of fund approved remediation			4
For <u>all</u> FRFE release cleanups financed by the fund completed this FY: <i>Median</i> months from release report to completion of FRFE release cleanup	108	187	208

	FY15	FY16	FY17
Total income	\$66M	\$63M	\$63M
Total spending	\$30M	\$28M	\$24M
Unspent balance at EOY	\$36M	\$35M	\$39M



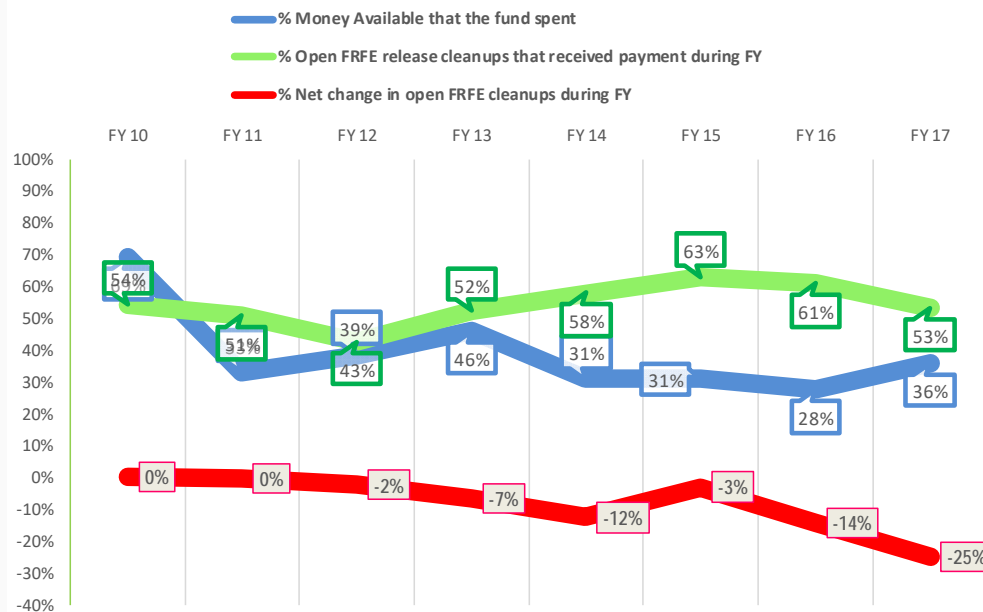
## State Example 2

- Questions from trend review:
  - Could the fund be spending more money?
  - Few cleanups getting a payment? Why?
  - Relatively long cleanup time (>15 years). Key factors/barriers?
- Opportunities for EPA/State engagement:
  - State statute requires program to rank cleanup sites according to risk – led to work being stopped at sites below “funding bar”; state also has stringent cleanup standards
  - Funding bar has been lowered over the years (last one in FY16)
  - Program developed new guidance for staff to use risk-based corrective action in their decision-making
  - Guidance also encourages collaboration between state fund, RP, consultant, and LUST project manager as cleanup decisions are being made
  - Working with EPA to see if there is a way to fund some work at sites below funding bar



# State Example 3

## 11. Backlog Reduction, Money Available and Spending



	FY15	FY16	FY17
	Average	Average	Median
For FRFE release cleanups that <u>started</u> during this FY: <i>Median</i> months from FRFE release report to start of fund approved remediation			0
For <u>all</u> FRFE release cleanups financed by the fund completed this FY: <i>Median</i> months from release report to completion of FRFE release cleanup	23	81	16

	FY15	FY16	FY17
Total income	\$24M	\$23M	\$22M
Total spending	\$7.5M	\$6M	\$6M
Unspent balance at EOY	\$16.5M	\$17M	\$16M

	FY15	FY16	FY17
Unpaid claims	\$0	\$0	\$0





## Takeaways

- Most state funds appear to be doing fine
- In many cases, money does not appear to be a constraining factor; in fact, some funds carry large balances
- A few states are struggling financially and have very long cleanup times
- Challenges include staffing shortages and inefficient claims processing
- A few cases where state fund and cleanup program don't see eye to eye
- Some issues and challenges fall under scope of cleanup program rather than the fund



## Takeaways (con'td)

Examples of positive results:

- State 1: Fund lowered deductible to get more sites moving
- State 2: Fund implemented an array of changes to improve fund efficiency and performance
- State 3: State did a review of case files and found a number of stalled sites; now initiating more cleanups & addressing all sites
- State 4: State implemented a time limit on claims to get a better handle on their liabilities



# Questions?

## Contact Info:

- Will Anderson  
202.564.1642  
[anderson.will@epa.gov](mailto:anderson.will@epa.gov)
  
- Cho-Yi Risher  
202.564.0672  
[risher.choyi@epa.gov](mailto:risher.choyi@epa.gov)