

# Virginia Department of Environmental Quality

## Virginia Petroleum Storage Tank Fund

### Denial Codes and Denial Code Response Key

The Panel Decision Worksheets you received include denial codes in the far right column. Listed below is information that explains these denial codes and indicates what additional information you should provide in order to assert eligibility for additional reimbursement. You must be able to provide evidence to support your assertions. **Assertions without supporting documentation or explanation will be insufficient to permit approval of previously denied costs.**

Please examine all of the denial codes listed in this key and not just those that are found in your Panel Decision Worksheets. Some of these denial codes may apply to the additional information you intend to submit for your Reconsideration package. You should be aware that the information you have submitted, together with any additional information you submit with your Reconsideration Claim Form, must fully support and defend the costs in your application against any and all eligibility, necessity and reasonableness requirements. Although this key is not an exhaustive summary of the law and regulations, by reviewing all of the denial codes in the key you can ascertain the basic information that may be necessary to adequately support your claim. Because the Reconsideration decision is final, there will be no further opportunity for you to submit these costs for review.

#### Codes

D28 Markup that exceeds the approved rate is not eligible for reimbursement.

To respond to a D28 denial, you must demonstrate that the total cost did not exceed the approved markup rate.

D32 Invoices must contain:

1. the name of the vendor issuing the invoice,
2. an invoice number,
3. an invoice date, and
4. a reference to the site name, address, or DEQ Pollution Complaint number (PC#).

To respond to a D32 denial, the claimant must provide the invoice or the missing information from the company which provided the invoice.

D41 Costs must be reasonable and necessary to be reimbursed. The Usual and Customary Rates (UCRs) contain the rates deemed reasonable by DEQ. Costs reported as performed and incurred exceeded the units reported times the UCR.

To respond to a D41 denial, you must demonstrate that the UCRs were incorrectly applied, provide a site-specific justification for the costs, or submit copies of at least three competitive bids containing identical scopes of work for necessary corrective action which were obtained before incurring the costs.

- D52 Daily rental or use fees for cars, vans, light, and medium trucks are not eligible for reimbursement. Vehicle use is eligible for reimbursement on a per mile basis only.
- To respond to a D52 denial, you must demonstrate that the cost claimed were not for vehicle rental or use fees.
- D55 Costs otherwise approved for reimbursement are denied to repay an overpayment associated with the original claim.
- To respond to a D55 denial, you must demonstrate that you were not overpaid in the referenced claim.
- D72 The Corrective Action Activities performed prior to reporting a petroleum release to the DEQ are not eligible for reimbursement.
- To respond to a D72 denial, the claimant must demonstrate that the work at issue was performed not more than twenty-four hours before the release was reported to DEQ or the activity performed was required by the Regional Office for site characterization. In latter instance, the claimant must demonstrate that proper site characterization required the activity, information, or data gained from the activity was included in the Site Characterization Report.
- D73 Claim preparation costs must be submitted in the claim for which the activity was performed.
- To respond to a D73 denial, the claimant must demonstrate that the denied application preparation costs were submitted with the claim for which they were incurred.
- D86 Costs associated with releases or discharges caused by negligence are not eligible for reimbursement.
- To respond to a D86 denial, you must demonstrate that the release or discharge was not caused by negligence.
- D87 Costs which are reimbursed or reimbursable under an insurance policy are not eligible for reimbursement.
- To respond to a D87 denial, you must demonstrate that the costs were not reimbursed or reimbursable under an insurance policy.
- D89 Cost which are reimbursable under other State or Federal programs are not eligible for VPSTF reimbursement.
- To respond to a D89 denial, you must demonstrate that the costs are not reimbursable under other state or federal programs.

D101 The amount claimed on Form 1 is greater than the sum of the line items on the AAF Cost Worksheet. To allow claim processing, the amount of the discrepancy was added as a worksheet line item. This amount is denied as an unclaimed cost, since there was not line item for it.

To respond to a D101 denial, the claimant must demonstrate that there is no discrepancy between the amount claimed on Form 1 and the sum of the AAF Cost Worksheet line items

D102 The amount claimed on Form 1 is less than the sum of the line items on the AAF Cost Worksheet. To allow claim processing, the amount of the discrepancy was added to the total claimed amount. This amount is denied as an unclaimed cost, since it was not requested on Form 1.

To respond to an D102 denial, the claimant must demonstrate that there is no discrepancy between the amount claimed on Form 1 and the sum of the AAF Cost Worksheet line items.

D118 The competitive bids submitted do not meet one or more of DEQ requirements. The DEQ requirements for competitive bids are as follows:

1. The bids must be site specific;
2. The scope of work (SOW) must be clearly defined;
3. The SOW must be identical for all bids;
4. The SOW must not include any items that are ineligible for reimbursement;
5. The SOW must be referenced in each bid document submitted for review;
6. The bids must be signed by the bidding contractor;
7. The bids must have been obtained before the work was performed; and
8. At least three bids, meeting the seven criteria above, must have been obtained.
- 9 The Lump Sum Bid did not contain a contingency Unit Price to support a Change Order.

To respond to a D118 denial, you must demonstrate that the bids submitted do conform to DEQ requirements.

D119 Claim preparation costs associated with claims containing only "ineligible" costs are not eligible for reimbursement. "Ineligible Costs" include, but are not limited to: costs for activities which are ineligible for reimbursement from the Virginia Petroleum Storage Tank Fund (VPSTF), costs claimed in prior applications, or costs associated with invoices claimed in prior applications.

To respond to a D119 denial, you must demonstrate that the costs were eligible for reimbursement from the VPSTF.

D120 Costs associated with invoices dated later than the day the claim was received by DEQ are not eligible for reimbursement.

To respond to a D120 denial, you must demonstrate that the true invoice date is not later than the day the claim was received by DEQ or the work that was invoiced was completed prior to the claim was received by DEQ.

D121 The dates covered by a PSCRM Phase progress claim or a CAP Imp Phase progress claim may not overlap the dates covered by a previous (or subsequent) claim. The date range of these claims is defined by the dates of the earliest invoice and the latest invoice they contain. Costs associated with invoices dated within the date range of a previous claim are not eligible for reimbursement.

To respond to a D121 denial, you must demonstrate that the invoice date is not within the date range of another PSCRM or CAP Imp Phase progress claim.

D123 The total amount of an invoice must be equal to or greater than the sum of the line item costs attributed to that invoice. Costs, which on an aggregate level, exceed the invoice total are not eligible for reimbursement.

To respond to a D123 denial, you must provide invoice documentation that demonstrates that the total amount of the line items does not exceed the invoice total.

D126 The Usual and Customary Rate (UCR) code claimed is not a valid UCR code in that it does not appear on the UCR Schedule (1289, 395, 198, or 007) applicable to this claim.

To respond to a D126 denial, you must demonstrate that, though the task code you used was incorrect, the task you are claiming was pre-approved by DEQ, performed by you, and verified by the DEQ Regional Office. You must also show that the costs for that task were not claimed or approved elsewhere

D128 The units listed as performed on the AAF were greater than the units verified by the Regional Office. This generally means that the Regional Office did not have sufficient evidence that the work claimed was actually performed, or that the work was not reasonable and necessary, or that the work performed was not satisfactory, or that the Regional Office had not pre-approved the work that they were asked to verify.

To respond to a D128 denial, you must demonstrate that

1. you performed the units listed as performed to a satisfactory standard.
2. the work performed was reasonable and necessary, and
3. you requested verification of those units on a the Work Performed AAF which was timely submitted to the Regional Office. The date that the AAF, dated no later than the date the Regional Office verified the Activity Authorization Form used for processing this claim. Please note that it is the claimant's responsibility to provide documentation from the Regional Office to support its response to a D128 denial.

D129 The units listed on the Work Performed Column on the AAF or the Bid Work Progress & Verification Form are less than the units verified as performed by the Regional Office.

To respond to a D129 denial, you must demonstrate that the numbers of units claimed were actually performed and were submitted for verification. To do this, submit

1. an Activity Authorization Form, dated no later than the date the Regional Office verified the Activity Authorization Form use for processing this claim, which reflects the correct number of units performed.
2. you must also provide proof that the units claimed were actually performed. PLEASE NOTE that generally items or units omitted from the Work Performed Column of the AAF or the Bid Work Progress & Verification Form will not be eligible for reimbursement even if these items or units are included on the AAF Cost Worksheet.

D130 The costs claimed are associated with an invoice which references multiple sites and therefore cannot be considered eligible for reimbursement.

To respond to a D130 denial, you must segregate the costs on the invoice by site and present the sub-total for each site, referencing the appropriate Pollution Complaint Numbers (PC#s).

D131 Bidding is required during the CAP Implementation Phase for activities or materials, which have no UCR and that over the duration of the phase will cost more than \$500 for 395 and 198 schedules, or more than \$1,000 for the 007 schedule exclusive if mark-up. The evidence submitted does not demonstrate that the activity was properly bid.

To respond to a D131 denial, you must provide evidence that:

1. the activity or materials were bid according to the bidding requirements for CAP Implementation Phase as outlined in the Reimbursement Guidance Manual, or
2. for 395 UCR Claims, you must show that the CAP Approval letter is dated prior to 7/16/96, the effective date of the bidding guidance. In addition, because invoices rarely provide much detail, a complete description of the activities and/or breakdown of the costs on each invoice should be submitted with the reconsideration claim. DEQ will review the costs claimed for each activity against published industry standards.

D132 The 198 Schedule UCRs that were used in this claim apply only to work performed on or after January 1, 1998. The invoices which were submitted are dated prior to January 1, 1998, and are not eligible for reimbursement using the 198 UCR Schedule.

To respond to a D132 denial, you must provide evidence that the work claimed was performed on or after January 1, 1998.

D134 The claimant failed to provide either an adequate breakdown of costs or sufficient documentation to support the costs claimed.

To respond to a D134 denial, you must submit documentation that clearly supports the costs and task or materials being claimed.

D135 Costs in excess of either the low bid amount or the cumulative percentage of the scope of work completed are not eligible for reimbursement.

To respond to a D135 denial, you must submit documentation demonstrating that the costs claimed do not exceed the low bid amount or that the costs claimed do not exceed the cumulative percentage of the scope of work completed.

D137 Costs claimed exceed the limit of Fund access established by law for this cleanup. Since the maximum allowable amount for this cleanup has already been paid or approved for payment, any additional costs claimed must be denied.

To respond to a D137 denial, the claimant must demonstrate that the costs approved for payment on this and all reimbursement claims, plus any other cost of corrective action which have been paid by the Fund, total less than the limit of Fund access which is applicable to this cleanup. The limit of Fund access is calculated by totaling the Fund access for all occurrences for the cleanup. The limit of Fund access for each occurrence is \$1 Million minus the financial responsibility requirement.

D139 State law prohibits reimbursement for claims filed after the claim filing deadline.

To respond to a D139 denial, the claimant must demonstrate that the claim was received by the deadline.

D140 State law prohibits reimbursement: 1) For UST clean-ups for work performed before December 22, 1989 2.)For AST cleanups for work paid before January 1, 1992.

To respond to a D140 denial, the claimant must demonstrate that the UST cleanup work was performed on or after December 22, 1989 or that the AST cleanup work was paid on or after January 1, 1992.

D141 Cost associated with invoices or work phases in prior claims for this occurrence are not eligible for reimbursement.

To respond to a D141 denial, the claimant must demonstrate that the invoices or work phases have not been submitted previously. In the alternative, for invoices, the claimant may request that the previously submitted invoice be applied in the present claim, with a deduction for costs approved against the invoice in prior claims.

D142 Costs claimed are not eligible for reimbursement.

To respond to a D142 denial you must demonstrate that costs incurred were for eligible activities for a release of an eligible product from an eligible tank by an eligible claimant. See reimbursement guidance manual for full description of eligibility requirements.

D143 The 007 Schedule UCRs there were used in this claim apply only to work performed on or after March 1, 2007. The invoices which were submitted are dated prior to March 1, 2007, and are not eligible for reimbursement using the 007 UCR Schedule.

To respond to at D143 denial, you must provide evidence that the work claimed was performed on or after March 1, 2007.

D145 Bidding is required when transporting and disposing of more than 250 tons of contaminated soil.

To respond to a D145 denial, the claimant must provide copies of at least three independent competitive bids which :

1. were obtained BEFORE the work was performed,
2. contained identical scopes of work, and
3. the lowest bid was chosen
4. or the claimant may provide a site specific justification for approval of costs.

D146 Lab analysis or soil treatment costs exceed either the invoiced costs plus approved mark-up or the invoiced costs plus ½ of Savings Pass-Along (UCR minus invoiced costs).

To respond to a D146 denial, the claimant must demonstrate that the approved mark-up rate was applied correctly by the claimant or that the Savings Pass-Along was calculated correctly by the claimant.

D147 Denial from DEQ audit. A pre-payment audit has been performed on this claim. Costs identified in the audit as being unsupported or otherwise ineligible are denied.

To respond to a D147 denial, the claimant should review the Audit Report and determine what information or evidence to provide that will justify reimbursement of these costs. The Audit Report provides a specific rationale for each claimed cost that was denied as a result of the pre-payment audit and is part of the claim file.