FAQ Guidance on the interpretation of Supplemental Funding under paragraph 5.4 of the State Trust.

As we approach the 10th anniversary of the Trust Modification Effective Date on October 2, 2027, we conferred with those involved in the original drafting and negotiation of this provision regarding the different use of the words “obligated” and “expended” in this paragraph. This wording was intentional and is explained here to assist State Beneficiaries in their budgeting and planning purposes for the next two years.

Paragraph 5.4.1- 80 % “obligated” requirement and deadline- October 2, 2027.

“Obligated” means that funds have submitted as part of an Appendix D-4 which has been approved by the Trustee. Those funds are committed by the State Beneficiary to be spent on a program or project or subject contract to fund an Eligible Mitigation Action. **“Obligated”** does not mean that the State Beneficiary has submitted an Attachment A for that entire amount.

Paragraph 5.4.3 - 80 % “expended” requirement and deadline December 31, 2027.

“Expended” means funds are both **“Obligated”** by the State Beneficiary to be spent on a program or project or subject contract to fund an Eligible Mitigation Action on an approved Appendix D-4 and that State Beneficiary has also submitted Attachments A to the Trustee to distribute that entire approved amount to it and that entire amount has been used for the purpose states in the approved Appendix D-4 to which it relates.

The Trustee is entitled to rely on the official reports prepared by each State Beneficiaries pursuant to Paragraph 5.3 which respect to the submissions from State Beneficiaries under these paragraphs.

The requirement that a State Beneficiary must have “obligated at least 80%” of the funds allocated to it or “expended at least 80%” of the funds allocated to it pursuant to the Final Allocation Rates will be measured against the original Final Allocation amount in the State Trust Agreement and does not include interest earned on that amount.

Issues with long-term contracts

State Beneficiaries may have entered long-term contracts with respect to some of these Eligible Mitigation Actions. These might include stagged or periodic payments. It is important that State Beneficiaries ensure that all of those **“Obligated”** funds are **“Expended”** prior to the deadline in Paragraph 5.4.3 (December 31, 2027).

Issues with disbursement arrangements

Some State Beneficiaries have had issues accepting and disbursing funds on their own. They have entered into Disbursement Agreements. All funds in Disbursement Agreements are all already subject to an Approved Appendix D-4 so they are all

“Obligated”. However, any funds remaining in those accounts on the deadline in paragraph 5.4.3 (December 31, 2027) will not be considered “**Expended**” unless they are disbursed and will be subject to “re-allocation” in accordance with paragraph 5.4.4.

Here is the text of Paragraphs 5.4.1 through and including 5.4.5 for your convenience.

5.4 Supplemental Funding for Eligible Beneficiaries and Final Disposition of Trust Assets

5.4.1 Estimate of Remainder Balance. On the tenth anniversary of the Trust Effective Date, the Trustee shall file with the Court, deliver to the United States, by and through EPA, and to each Beneficiary, and publish on its public-facing website, an accounting of all Trust Assets that have not by that date been expended on or obligated to approved Eligible Mitigation Actions or prior Trust Administration Costs, together with an
estimate of funding reasonably needed to cover the remaining Trust Administration Costs.

The difference between these two amounts shall be referred to as the “Remainder Balance.” 5.4.2 Application for Supplemental Funding Eligible Beneficiary Status. On the tenth anniversary of the Trust Effective Date, each Beneficiary may seek to supplement its
remaining allocation by filing with the Court and delivering to the Trustee a written report demonstrating that it has by that date obligated at least eighty percent (80%) of the funds allocated to it pursuant to the Final Allocation Rates calculated pursuant to subparagraph 5.0.1 (as determined with specific reference to the reports submitted pursuant to Paragraph 5.3).

5.4.3 Publication of Remainder Balance and Supplemental Funding Eligible Beneficiary Status. Within 90 Days after the tenth anniversary of the Trust Effective Date, the Trustee shall file with the Court, notify the United States, by and through EPA, and each Beneficiary, and publish on its website, a report indicating: (i) the Remainder Balance; and
(ii) which of the Beneficiaries has demonstrated that it had in fact expended at least 80% of the funds allocated to it pursuant to the Final Allocation Rates calculated pursuant to subparagraph 5.0.1, each of which shall be deemed a “Supplemental Funding Eligible Beneficiary.”

5.4.4 Distribution of Remainder Balance to Supplemental Funding Eligible Beneficiaries. On the later of: (i) 180 Days after the tenth anniversary of the Trust Effective Date, or (ii) the resolution of any disputes arising from the Trustee’s accountings or determinations pursuant to subparagraphs 5.4.1 or 5.4.3, the Remainder Balance shall be
divided among the Supplemental Funding Eligible Beneficiaries in accordance with their weighted share of the Final Allocation Rates.

5.4.5 Final Disposition of State Trust Assets. Not later than the fifteenth
anniversary of the Trust Effective Date, any and all unused funds held by any Beneficiary shall be returned to the State Trust. After the fifteenth anniversary of the Trust Effective Date, any Trust Assets held in the State Trust Account or any subaccount (including, but not limited to, the Trust Administration Cost Subaccount) that are not expended for final Trust
Administration Costs shall initially be distributed in accordance with the Liquidation Allocation Rates among each Beneficiary through its Lead Agency, as identified by such Beneficiary on its

Appendix D-3 as filed with the Court, and any remaining Trust Assets after such initial distribution shall also be distributed entirely among the Beneficiaries of the Trust.