

**USTIF BULLETIN #4**  
**DEDUCTIBLES RELATED TO THIRD PARTY CLAIMS/ACCESS**  
**AGREEMENTS**

The purpose of this bulletin is to clarify the Fund's position with regard to deductibles involving third party claims, particularly in relation to access agreements between tank owners and off-site property owners.

Section #705C of the Storage Tank and Spill Prevention Act sets forth the applicable language concerning deductibles. This section of the Act provides for a deductible that is applicable to remediation activities, and a separate deductible that is applicable to property damage, bodily injury or both caused from a release from an underground storage tank.

The Fund's position is that remediation activities such as installing a system or wells off-site are remediation costs related to the original deductible incurred by the tank owner for remediation activities. However, where the off-site property owner requests additional sums of money for temporary loss of use of the property, inconvenience, or other general damage, these requests fall under the definition of "property damage", as defined in Section 977.4 of the Fund's regulations (25 Pa. Code Chapter 977), and therefore require the tank owner to incur a second deductible for payment of a third party claim.

The Fund has become aware of instances where the tank owners or their consultants have entered into access agreements with off-site property owners that commit the tank owner to significant monetary exposure. Before signing any access agreement, consideration should be given to having an attorney review the scope of the commitment to understand exactly what the tank owner's responsibility may be.