

**Exposure of Draft Amendment to Rules Governing Underground Storage Tank
Indemnification Fund and Tank Installer Indemnification Program Eligibility,
25 Pa. Code § 977.31.**

Pursuant to Executive Order 1996-1, the Pennsylvania Underground Storage Tank Indemnification Board requests comments on its initial draft amendment to rules governing Underground Storage Tank Indemnification Fund (USTIF) and Tank Installer Indemnification Program (TIIP) eligibility. The USTIF is considering rule amendments that:

- Clarify USTIF and TIIP eligibility requirements by incorporating Pennsylvania Commonwealth Court and Supreme Court decisions; and
- Require that an underground storage tank be registered under Section 503 of the Tank Act within 60 days of when a release is confirmed.

The proposed amendment to the rules would affect USTIF and TIIP participants, which include tank owners, tank operators, and certified companies.

The provisions of § 977.31 would be amended under the authority set forth in sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412); and sections 705 and 706 of the Storage Tank and Spill Prevention Act (35 P.S. §§ 6021.705(f)(2), 6021.706(6)).

Interested persons or groups may submit comments or information on these initial proposed amendments in writing until **April 1, 2024**.

The USTIF is also interested in the impact of this initial draft amended regulation on small businesses and local governments and therefore requests that small businesses and local governments provide us with relevant information about the potential impact of the initial draft eligibility regulations.

USTIF's initial draft regulations are available at <https://ustif.pa.gov/>.

Written comments, questions, and requests for more information on these initial draft eligibility regulations should be directed to USTIF at ra-ustif@pa.gov.

ANNEX A

INSURANCE DEPARTMENT

25 PA. CODE CH. 977

CHAPTER 977. UNDERGROUND STORAGE TANK INDEMNIFICATION FUND

SUBCHAPTER A. GENERAL PROVISIONS

§ 977.4. Definitions.

Site – For purposes of § 977.31 (relating to eligibility requirements), the term means the property which includes the storage tank facility.

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SUBCHAPTER C. COVERAGE AND CLAIM PROCEDURES

§ 977.31. Eligibility requirements.

To be eligible for Fund coverage, the participant shall, under section 706 of the [act] Act (35 P.S. § 6021.706) (relating to eligibility of claimants), meet the following requirements:

(1) The claimant is the owner, operator or certified tank installer of the [tank] UST which is the subject of the claim.

(2) [The current fee] All fees required under [section 705 of the act (35 P.S. § 6021.705)] has been paid.] Subchapter B for all USTs located at the site where the release occurred are paid prior to the time that the release giving rise to the claim is discovered.

(3) [A UST] Registration and annual registration fees required under 25 Pa. Code § 245.41-42 (relating to registration and annual registration fees) for USTs located at the site where the release occurred are current and paid [has been registered in accordance with the requirements of section 503 of the act (35 P.S. § 6021.503).] on or before 60 days of when the release giving rise to the claim is confirmed.

(4) The participant [has obtained] received the appropriate permit or certification, if required under sections 108, 501 and 504 of the [act] Act (35 P.S. [§ §] §§ 6021.108 (relating to interim certification of installers and inspectors), 6021.501 (relating to UST requirements), and 6021.504).] (relating to permits and plans) prior to the time that the release giving rise to the claim is discovered.

(5) The release that is the subject of the claim occurred after **February 1, 1994**, the date established by the Board for payment of the fee required by section 705(d) of the [act] **Act (35 P.S. § 6021.705(d)) (relating to fees)**.

(6) The participant cooperates, as defined in § 977.32 (relating to participant cooperation), with the Fund in its eligibility determination process, claims investigation, the defense of any suit, the pursuit of a subrogation action and other matters as requested.

(7) The participant [**has**] met the notification requirements of § 977.34 (relating to claims reporting).

(8) If the claimant is a certified company, the company conducted a tank-handling activity on a UST or a HOT from which the release occurred.