



Pennsylvania Insurance Department Bureau of Special Funds

Underground Storage Tank Indemnification Fund
2022 Performance Review Report

Based on Information through August 10, 2022

Issue Date – November 30, 2022





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Introduction

Purpose

Aon Global Risk Consulting (“AGRC”) was retained by the PA Underground Storage Tank Indemnification Fund Board of Directors (“USTIF” or “Board”) to review and evaluate the performance of the Underground Storage Tank Indemnification Fund over the 5 year period from 2017 through 2021 as required by the Storage Tank and Spill Prevention Act (Act 32 of 1989, 35 P.S. §§ 6021.101 et seq., as amended) (the “Act”). The Act requires the Board to review and evaluate the performance of the Underground Storage Tank Indemnification Fund and make recommendations to the General Assembly regarding USTIF’s continuation or termination.

Scope

The scope of this review is to provide relevant information and conclusions that will help the Board determine if:

1. there is adequate funding for the programs
2. there is duplication of services
3. there is a demonstrated need for the programs
4. there would be a negative impact if the fund were dissolved
5. the fund is providing the benefits as intended when it was conceived



Andrew Raynes and Peter Lindquist are members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

We performed this analysis using generally accepted actuarial principles and in accordance with all relevant Actuarial Standards of Practice.

Please contact us if you have any questions regarding their report.

Respectfully submitted,

Aon Global Risk Consulting

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Conditions and Limitations

Data Reliance

In conducting this analysis, we relied upon the provided data without audit or independent verification; however, we reviewed it for reasonableness and consistency. Any inaccuracies in quantitative data or qualitative representations could have a significant effect on the results of our review and analysis.

Use and Distribution

Use of this report is limited to the PA Underground Storage Tank Indemnification Fund for the specific purpose described in the Introduction section. Other uses are prohibited without an executed release with Aon.

Distribution by the PA Underground Storage Tank Indemnification Fund is unrestricted. We recognize that this report will be distributed to third parties including the Pennsylvania legislature. We request that Aon be notified of further distribution of this report. The report should only be distributed in its entirety including all supporting exhibits.



Executive Summary

Section 708 of the Act states that, “the Board shall periodically review and evaluate the performance of the USTIF, including all programs funded from it, and make recommendations to the General Assembly for its continuation or termination every five years.” This report covers the five-year period from January 2017 through December 2021 and fulfills the legal / regulatory requirements of the Act.

Performance Review Objectives

The following five objectives were considered during the review:

1. To determine if there is adequate funding for the programs
2. To determine if there is duplication of services
3. To determine if there is a demonstrated need for the programs
4. To determine if there would be a negative impact if the fund were dissolved
5. To determine if the fund is providing the benefits as intended when it was conceived

Performance Review Resources

In carrying out this review, the following resources were relied upon:

1. USTIF Five-Year Performance Review and Evaluation report dated December 5, 2017
2. Storage Tank & Spill Prevention Act (“Act 32”)
3. Aon’s Actuarial Analysis for the Underground Storage Tank Indemnification Fund and the Tank Installers Indemnification Program as of June 30, 2021, dated November 23, 2021
4. USTIF Annual Reports (2017 through 2021)
5. USTIF Financial Statements (2017 through 2021)
6. A Memorandum of Understanding between the Office of the Budget and the Insurance Department was issued in 2014 that outlines the loan repayment plan for the General Fund loan.
 - a. The total outstanding principal and interest on the loan was repaid in 2021.
7. Act 10 of 2020, Section 1735-A.1 “COVID-19 response transfers for assistance to the Commonwealth’s health care system”.
8. Surveys with the Fund’s Board of Directors, including the Deputy Insurance Commissioner of Pennsylvania, the Executive Director, and the Board members representing each membership area.
9. Surveys from fund participants, both those who have experienced the claims handling process as well as those who have not.



Performance Review Report Contents

This performance review report is organized as follows:

1. Background
2. Financials
3. Milestones
4. Stakeholder Survey Summary Statements
 - Board Members
 - Acting Deputy Secretary (DEP)
 - Deputy Insurance Commissioner (PA Insurance Department)
 - Executive Director (PA Insurance Department)
 - Fund Participants
5. Performance Review Findings
 - Funding Adequacy
 - Demonstrated Need for the Program
 - Duplication of Services
 - Negative Impacts if the Program were Dissolved
 - Benefits Provided by the Program



Background

The release of regulated substances stored in underground storage tanks (“UST”s) poses a threat to the public health and safety of both the environment and the Commonwealth's citizens. A release is generally considered to be any leak, spill, or discharge from USTs into soil or groundwater.

The U.S. Environmental Protection Agency (“EPA”) and the Pennsylvania Department of Environmental Protection (“DEP”) have issued a number of regulations governing the construction, upgrade, and operation of underground storage tanks. These regulations also establish financial responsibility requirements in the event that an UST leaks.

The Storage Tank and Spill Prevention Act, Act 32 of 1989, 35 P. S. §§6021.101 et seq., as amended, (“Act”) created the Underground Storage Tank Indemnification Fund to assist owners and operators in meeting the financial responsibility requirement. Section 708 of the Act states that, “the Board shall periodically review and evaluate the performance of the USTIF, including all programs funded from it, and make recommendations to the General Assembly for its continuation or termination every five years.”

The Fund makes claim payments to eligible UST owners or operators for damages caused by a UST release. To be eligible, the release must have occurred on or after February 1, 1994. There are other eligibility requirements. The USTIF indemnifies tank owners for third party liability that may occur when the release from a tank has injured another person or that person's property. Claim payments to eligible owners or operators shall be limited to the actual costs of corrective action and third party liability. The current per occurrence limit is \$1.5 million, subject to a deductible of \$5,000 per tank. Payments are subject to an annual aggregate limit of \$1.5 million or \$3.0 million, depending on whether an owner or operator has less than or more than 100 USTs, respectively. The Fund is administered by the Pennsylvania Insurance Department.

Section 703 of the Act established USTIF's Board of Directors. The Board, whose members are knowledgeable on insurance and storage tank issues, provides policy guidance to USTIF. There are 14 positions on the Board (11 active members and 3 vacancies*) representing the organizations listed below.



Members Appointed by the Governor

1. Associated Petroleum Industries of PA
2. Alliance of Automotive Service Providers of PA and the Petroleum Retailers and Auto Repair Association, Inc.
3. Public Member
4. PA Petroleum Association
5. PA Farm Bureau, PA State Grange, PA Farmers Union
6. Tank Installers of PA
7. Local Government Knowledgeable About Storage Tanks
8. Pennsylvania Food Merchants Association

Two Ex-Officio Members

9. Department of Environmental Protection, Ex-Officio Member
10. PA Insurance Department, Ex-Officio Member

Appointees

11. Senate President Pro Tempore*
12. Senate Minority Leader*
13. Speaker of the House
14. House Minority Leader*



Financials

USTIF 5-year Operating Results and Current Financial Position

From 2017-2019 USTIF's fee income was relatively flat at about \$60 million, then in 2020 and 2021 the fee income decreased to roughly \$53 million. The fee revenue has been depressed since 2020 due to the lockdowns and the decrease in travel related to the COVID pandemic. Over the past 5 years USTIF's DEP allocations have been relatively volatile averaging \$9.5 million. Claim payments decreased significantly between 2017 and 2018 then remained fairly flat at \$30 million for the remaining years.

Significant USTIF Financial Amounts: CY 2017-2021			
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<u>Year</u>	<u>Fee Income</u>	<u>Claim Payments</u>	<u>DEP Allocations</u>
2017	59,753,242	(33,287,724)	(8,440,000)
2018	58,251,433	(30,112,367)	(7,700,000)
2019	60,500,212	(30,177,554)	(11,800,000)
2020	51,139,124	(29,942,350)	(10,459,298)
2021	54,693,465	(30,793,678)	(9,000,000)
Total	284,337,476	(154,313,673)	(47,399,298)

The table above does not reflect investment income as this item was only available on a fiscal year basis (July 1 through June 30). Over the 5-year period, investment income, including unrealized gains, has varied significantly, \$6.5 million to \$32.5 million per year, due to volatile financial market conditions.

As of June 30, 2021, USTIF had assets of \$484.1 million and total liabilities of \$388.6 million on an undiscounted basis. Of the total liabilities, \$313.6 million were related to unpaid loss and allocated loss adjustment expense. The USTIF's assets exceeded its liabilities by \$95.4 million as of June 30, 2021.

Over the 5-year review period USTIF has moved from a deficit to a surplus. It is important to note that over this time the General Fund Loan was repaid in full (\$86.5 million principal and interest). As the table on the next page shows, the deficit position has been steadily improving over the period, decreasing from a \$67.0 million deficit at June 30, 2017 to no deficit at June 30, 2021. As of June 30, 2021 USTIF's assets exceeded its liabilities by \$95.4 million.



Unfunded Liability FY 2017-2021

<u>Year</u>	<u>Unfunded Liability</u>
2017	67,000,000
2018	19,600,000
2019	41,000,000
2020	20,600,000
2021	None*

*The 2021 Actuarial Study concluded that assets exceeded liabilities by approximately \$95 million.

TIIP 5-year Operating Results

The TIIP loss exposure is minimal relative to USTIF; only a handful of claims are reported each year and resulting loss dollars are relatively small. Over the 5-year review period, TIIP fee income has fluctuated around \$300 thousand per year and totalled approximately \$1.6 million. During that timeframe, 3 claims were reported, 2 of which were still open or being appealed as of June 30, 2021. TIIP payments during the period plus case reserves as of June 30, 2021 totalled \$375 thousand.

TIIP Financial Amounts CY 2017-2021
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<u>Year</u>	<u>Fee Income</u>
2017	324,242
2018	293,025
2019	362,127
2020	298,005
2021	343,622
Total	1,621,021



Summary of Allocations Approved by the Board and Utilized by DEP

During the review period, USTIF has allocated the amounts shown in the table below to the Department of Environmental Protection. The DEP uses these allocations to pay pollution protection, environmental and catastrophic cleanup, and investigative and closure costs.

Department of Environmental Protection Allocations					
2017-2021					
<u>Year</u>	<u>Base Allocation</u>	<u>Pump & Plug</u>	<u>Catastrophic Release</u>	<u>Investigation & Closure Costs</u>	<u>Total Allocation</u>
2017	1,700,000	40,000	0	6,700,000	8,440,000
2018	3,200,000	0	0	4,500,000	7,700,000
2019	2,300,000	0	0	9,500,000	11,800,000
2020	3,300,000	159,298	0	7,000,000	10,459,298
2021	2,000,000	0	0	7,000,000	9,000,000
Total	12,500,000	199,298	0	34,700,000	47,399,298
Utilized	(13,176,327)	(150,038)	0	(29,275,090)	(42,601,455)

Summary of 5-Year Payment History & Current Accrued Interest: \$100 Million General Fund Loan

The General Fund Loan's principal payment and accrued interest balance over the 5-year review period is shown in the following table. The original repayment in full date was to be June 30, 2014. However, the 2014 Memorandum of Understanding indicated that future annual payments would be fixed at not less than \$7 million and would begin during the fiscal year beginning 7/1/2015. The payments would continue until the outstanding principal and interest were paid in full in 2029. As of June 30, 2020, no payments had been made based on the amended terms. On June 30, 2021, payment was made for the full amount of the loan, including the remaining loan balance and accrued interest, totaling \$86.5 million.

\$100 Million General Fund Loan from USTIF				
<u>Fiscal Year</u>	<u>Principal Repayments</u>	<u>Principal Balance O/S</u>	<u>Accrued Interest Balance</u>	<u>Total Outstanding</u>
2017	0	67,500,000	15,132,858	82,632,858
2018	0	67,500,000	16,156,797	83,656,797
2019	0	67,500,000	17,765,336	85,265,336
2020	0	67,500,000	18,844,834	86,344,834
2021	86,474,926	0	0	0
Total/Balance @ 6/30/21	86,474,926	0	0	0



Voluntary Heating Oil Tank Program 5-year Operating Results

Operating results for the Voluntary Heating Oil Tank Program are problematic to compile as the underlying claims are not separately identified in the loss runs supplied to Aon for their annual actuarial analysis. Therefore, claim costs are included as a part of the USTIF analysis and are not separately identifiable. However, the number of tanks covered during each of the five years, the number of newly filed claims and the change in incurred loss is shown in the following table.

Voluntary Heating Oil Program (CY 2017-2021)			
			Incurred
<u>Year</u>	<u>Tanks Covered</u>	<u>Claims Filed</u>	<u>Loss Change</u>
2017	1,348	1	(38,756)
2018	1,311	1	949,745
2019	1,176	3	522,681
2020	1,187	3	255,430
2021	1,155	6	774,679



Milestones

This section highlights the accomplishments during the past five years in the areas of program management and administration.

Claims Management Procedures

The management of USTIF continued to implement prior cost containment initiatives during our review period. For instance, the pursuit of fixed price contracts has continued and claims continue to be closed more quickly. The number of open claims decreased steadily from 1,012 at June 30, 2017 to 886 at June 30, 2021 (12.5% decrease).

The DEP regulatory changes to Chapter 245 were finalized in 2018 and called for increased inspections and testing. As a result, the annual number of newly reported claims increased from 2017 (179 claims) to 2020 (204 claims). In 2021, claim filings dipped back down to 2017 levels with 172 claims reported, but the assumption is that claims reporting will remain elevated for 2022 and subsequent years. As noted in the 2021 actuarial report, the expectation is that the elevated frequency may lead to an increase in TPA related administrative costs, but not necessarily a material increase in claim related payments.

New Website and Fee Billing System

USTIF collects fees from tank owners of roughly \$50-60 million per year. In 2010, USTIF commissioned a study entitled, "Report on Internal Controls: Revenue and Collection Process", which surmised that errors or incorrect reporting due primarily to the "honor" system used to report and pay the per gallon fees may result in a loss of revenue of up to \$3 million per year. As a result of the report, as well as the fact that the current billing system was becoming antiquated, a decision was made by the USTIF Board and the Department to undertake the task of developing a web based interactive Fee Billing System (FBS). The first step was to create a dedicated website for USTIF. On September 15, 2015, the website (<https://ustif.pa.gov>) was rolled out and would now serve as a means to disseminate information to those participating in the fund. Then on July 1, 2017, after 2 years of development, an interactive web-based fee billing and revenue collection system was deployed.

All USTIF program participants now have online access to their specific accounts and have the ability to make electronic payments directly through the system. They are also able to view their payment history and confirm the deliveries being made to their facilities by their fuel distributors. Additionally, distributor reporting changed from being one lump sum amount (number of gallons distributed) under the "honor" system, to an exact reporting format that tracks deliveries down to the specific tank level. The new system is helping to ensure that distributors are reporting fees correctly and to eliminate instances where facility



owners are being undercharged or overcharged. In this way, the program area can perform internal audits to ensure that accurate reporting and revenue collection is taking place. It is hoped that this will eliminate processing errors and create a more efficient tracking and payment process and, ultimately, result in a higher revenue figure from that area. Since deployment, the FBS has improved USTIF's ability to collect all fees to which it is entitled.



Survey – Summary Statements

Part of Aon’s performance review consisted of interviewing USTIF stakeholders via surveys. Two surveys were prepared, one for the Board and Executive Director and a second tailored to the Fund’s participants, both those with claims and those without. These surveys were intended to gain insights into stakeholders’ views regarding USTIF and the performance objectives.

Survey responses from each stakeholder group are summarized below. Appendix A documents the specific questions posed in each survey.

Board Members

Currently 7 of 8 members, 2 of 7 alternates, and 1 appointee have responded. All groups represented by the Board, except for the PA Farm Bureau, responded to the survey through either a member or an alternate.

1. Adequate Funding

Nearly all (9 of 10) and (8 of 10) respondents feel there is adequate funding for the programs and expressed no concern about programs not having adequate funding in the future. Noted concerns included “funding other things out of USTIF, like larger DEP allocations, we won’t be able to keep providing the necessary dollars towards the intent of the fund, which is to help remediate.” Another member is concerned about the \$30M that was taken out of the fund for Covid.

All respondents are confident that the USTIF collects all fees to which it is entitled.

Two respondents are unsure if the fee structure needs to be altered and one respondent does foresee need for change. Reasons cited for possible change include switch from fossil fuels to alternative energy, increase in electric cars, reduction in gallons sold, volume of claims, efficiencies of cleanups and reduction in clean up pay outs.

3 respondents do not favor altering limits and/or deductibles, while 3 are proponents for fee reduction, 2 for lower deductibles, and 2 for increased coverage.

2. Duplication Services

9 of 10 respondents feel there is no duplication of services, while 1 respondent doesn’t know.

3. Demonstrated Need for Programs

9 of 10 respondents indicated there is a demonstrated need for the program, while 1 doesn’t know.

Half of the respondents felt that other possible methods of demonstrating financial responsibility wouldn’t work as well as USTIF. One of them noted, “private insurance would be too costly for the

many dealers not having multiple locations.” 1 respondent said yes to other possible methods and 4 are unsure. One respondent suggested using a letter of credit along with the fund. Another respondent thinks all the listed alternatives are good, but is concerned about the end result of using an alternative – “Will the EPA still monitor the outcomes? If so, how will the EPA be funded?”

4. Negative Impacts from Dissolution

9 of 10 respondents indicated there would be negative impacts were USTIF to be dissolved and 1 is unsure. Reasons cited ranged from higher costs for owners/operators including unaffordable coverage, collection and compliance issues, and detrimental impact on the environment.

5. Providing Benefits as Intended

8 of 10 respondents felt that USTIF is providing the benefits intended when it was conceived. 1 responded “no” and 1 did not respond. One respondent praised the program as “one of the most efficient and well-run programs in the nation. It is a model for other states to follow.” One respondent is concerned about inconsistencies of determinations on funding made by 3rd party companies.

Half feel confident that eligible leaks are being addressed in a timely and cost effective manner. One respondent cautioned that “Clean up of fuel leaks is a tricky business. Length of time the leak occurred, type of product (Leaded gas, unleaded gas, diesel, ULSD, bio blends, ethanol, etc) of the fuel leak, type of backfill material, type of native soils, depth to groundwater table, depth to bedrock all play a role in how to clean up a fuel leak.”

The majority did not have any concerns with response time, adequacy of corrective action, or issues regarding on-going monitoring of sites. A few respondents believe there is room to make processes quicker and more efficient. One respondent is concerned about equipment being in working order. Another respondent noted, “the current claims system only allows a % of profit over costs to the enviro consultant and thus limits the effectiveness of the enviro clean up.”

The majority feel that the limits and deductibles provide adequate coverage for claimants.

6. Fee Billing System

The majority feel that the new fee billing system has achieved its intended purpose, improved USTIF’s ability to collect all fees to which it is entitled, and has been well received by the fund participants. Respondents that did not respond positively, either aren’t sure or did not offer a response.

One respondent noted that “tank owners can choose not to participate, in this case the fees are not being collected.” A couple of respondents mentioned they have not heard of any complaints regarding the system.

One respondent noted there were minor challenges of the adoption and integration of the system at the onset. All other respondents are not aware of any challenges or did not provide a response.



7. Future Challenges for USTIF

Several respondents acknowledged the impact of electrical vehicles. One respondent noted the possibility of “an influx of claims due to aging sites.” A few respondents are concerned about the possibility of the government taking funds. “As has happened on occasion through the years, the state sometimes looks to special funds for assistance with balancing the budget when shortfalls are anticipated and a transfer of USTIF monies is made to the General Fund. This could continue to be a challenge in the years when the state is facing a budget deficit.”

Deputy Secretary (DEP)

Member did not respond to the survey.

Deputy Insurance Commissioner (PA Insurance Department)

1. Adequate Funding

Respondent felt there was currently adequate funding and was not concerned about the adequacy of funding in the future. They were confident that USTIF collects all fees to which it is entitled and did not feel that the current fee structure would need to be altered.

2. Duplication of Services

Respondent did not feel there is any duplication of services.

3. Demonstrated Need for Programs

Respondent indicated there is a demonstrated need for the program and did not feel that other methods of demonstrating financial responsibility would work as well as the fund.

4. Negative Impacts from Dissolution

Respondent felt there would be negative impacts if USTIF were dissolved. Lack of availability of coverage could hinder cleanup efforts which would ultimately hurt the environment.

5. Providing Benefits as Intended

Respondent felt USTIF is providing the benefits intended when it was conceived and was very confident that eligible leaks were addressed in a timely and cost effective manner. There were no concerns regarding response time, adequacy of corrective action, or issues regarding on-going monitoring of sites.

The respondent feels the limits and deductibles provide adequate coverage for claimants.

They also noted that “the Fund does a great job, with limited staff and resources, to pay for a cleaner Commonwealth.”

6. Fee Billing System

Respondent feels the new fee billing system has achieved its intended purpose, improved USTIF's ability to collect fees, and has been well received by the fund participants. They noted as with any change there have been challenges with adoption and integration of the system, but over time these challenges have dissipated. "It has taken a few years to be universally adapted, however, now it is an excellent tool used by the Fund."

7. Future Challenges for USTIF

The only challenge the respondent cited is retirement of Commonwealth employees, but they acknowledged it is being addressed.

Executive Director (PA Insurance Department)

1. Adequate Funding

Respondent feels there is currently adequate funding and is not concerned that some programs might not have adequate funding in the future. They noted that the repayment of the 2002 General Fund loan has allayed past concerns.

Respondent is confident that USTIF collects all fees to which it is entitled. The new fee billing system is the main driver contributing to their confidence. They stated, "We are confident the program area is collecting fees to the best of their ability. Audits are run quarterly and reporting gaps pertaining to throughput revenue are researched accordingly. We are still finding distributors that are unfamiliar with USTIF fee requirements and all attempts are made to educate them accordingly."

Respondent believes that the current fee structure is adequate, does not foresee any need for future changes, and that "the USTIF has enough cash reserves to cover all claim liabilities". They cited the repayment of the General Fund loan as the eliminating factor of the unfunded liability. They mentioned the importance of managing long term investments to keep the program fully funded and any future changes to the fee structure is "dependent on new claims and resulting payments remaining at historical levels as well as historical investment returns."

Respondent supports lower deductibles to provide a broader benefit to program participants.

2. Duplication of Services

Respondent did not feel there is any duplication of services. They did note that there was a small number of firms writing private insurance for pollution liability. However, the private insurance coverage had some limitations (i.e. coverage was often excess, it did not apply to releases before the coverage date, and it excluded faulty workmanship). Because of this, the coverage provided by USTIF is more comprehensive and there is nothing else in the market providing the same level of service.

3. Demonstrated Need for Programs

Indicated there is a demonstrated need for the program and did not feel that other methods of demonstrating financial responsibility would work as well as the fund.



The respondent noted that strict underwriting requirements as well as pre-existing claims exclusions would limit the effectiveness of private insurers. Also, the additional administrative costs associated with oversight of the claims through the surety or letter of credit option may prove burdensome. The respondent feels that, ultimately, "It may be too costly and cumbersome for some small owner/operators to oversee their own environmental cleanups and handle litigation at their own expense. Concerned that sites may not be efficiently remediated thus contributing to PADEP's current backlog of contaminated sites." Currently, all of these issues are addressed by the USTIF and, thus, there is a demonstrated need for the program.

4. Negative Impacts from Dissolution

There would be negative impacts if USTIF were dissolved. There would be a need to continue funding tank owner liability and cleanup costs for past incidents. Additionally, there is a risk that, without USTIF oversight, cleanups may cease thus threatening neighboring properties and water supplies. If some smaller operations don't purchase private insurance or have sufficient funds to remediate, then the claim may get pushed into the PADEP oversight and funding. "The environmental assets of the Commonwealth would be threatened."

5. Providing Benefits as Intended

Respondent felt USTIF is providing the benefits intended when it was conceived. "The USTIF has been repeatedly told by the EPA that it ranks amongst the top programs in the nation. Over 93% of claims submitted since the program's inception have been deemed eligible and have received funding in excess of \$1.18 billion dollars. Since inception, the USTIF has allocated over \$149 million to PADEP for various grants, programs, and expenses." With the 60 day reporting requirement, claims are presented promptly so that they can be addressed by the claims team. This also results in fewer third party claims and quicker responses by the remediation firms. Because of this, adequacy of corrective action and issues regarding on-going monitoring of sites is minimal as eligible leaks are addressed in a timely and cost effective manner.

The respondent feels the limits and deductibles provide adequate coverage for claimants. "The current average cleanup expenses per site are \$255,000 which is well within the USTIF coverage limit."

6. Fee Billing System

Respondent feels that the new Fee Billing System has achieved its intended purpose and has improved USTIF's ability to collect all fees to which it is entitled. With over 4,000 users, "the system has many auditing functions that allow gaps in payments to be found and addressed with stakeholders in an attempt to avoid denial of claims related to non-payment of fees." The system is quick and easy to use/access for payments, account review, financial responsibility assessments, etc. Also, additional costs, such as check handling, have been eliminated.

Respondent believes the system has been well received by the fund participants; however, there are some participants who simply refuse to use the system due to lack of understanding, deficiency in technical skills, or staff turnover. "There are many distributors who don't understand what fees are to be remitted and only file reports intermittently. We have tried to educate these

firms by sending letters and posting info to the dedicated website. A fair number of users confuse the USTIF program with the PADEP tank registration program and send inquiries as to why the system won't let them pay tank fees or print registration certificates.”

7. Future Challenges for USTIF

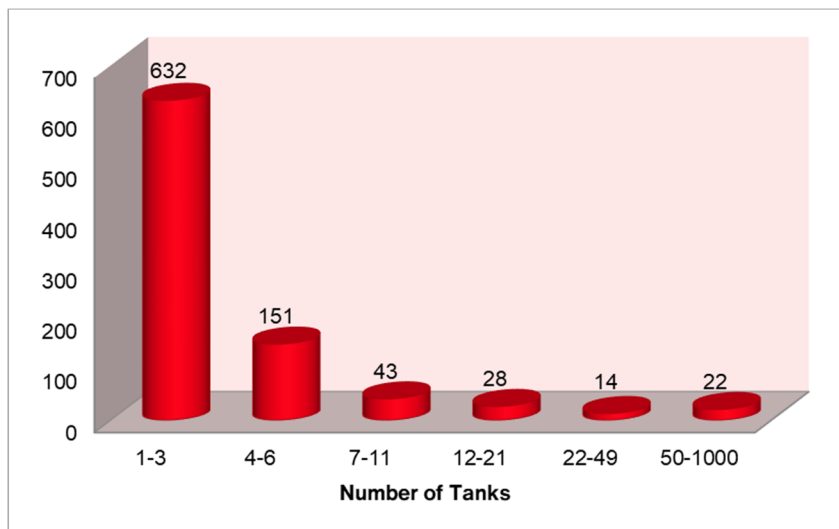
Respondent’s primary concerns about the future relate to economic conditions. Inflation, labor market demands, increasingly litigious population, and third party demands are all driving higher costs. Also, USTIF’s return on investments is shrinking due to the decline in the value of the stock market.

Fund Participant Sample

Of the 4,329 surveys sent out, 890 participants responded. Their responses provide useful insights into how USTIF is perceived. It is important to note, that “respondent” refers to an individual that answered the question (i.e. didn’t leave it blank). In the charts, the count of blank responses is for informational purposes only.

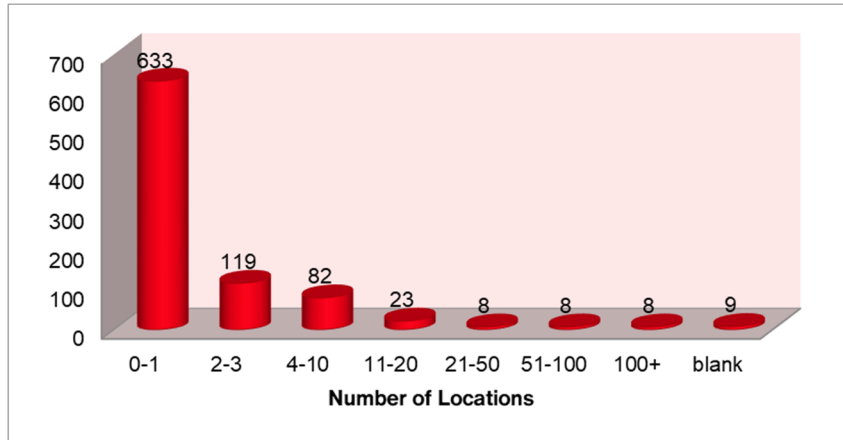
1. Number of Tanks Owned/Operated

632 of the 890 respondents (71%) operate 1-3 tanks.



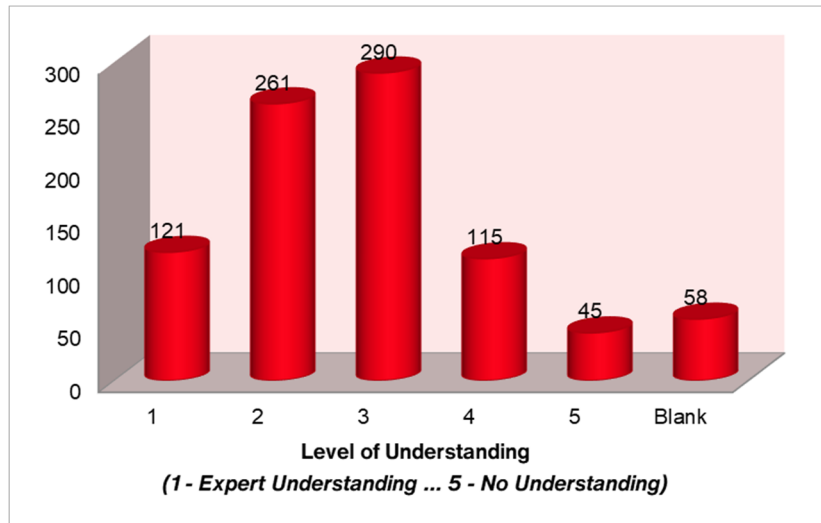
2. Number of Locations Currently Owned/Operated

633 of the 890 respondents (71%) have 1 location.



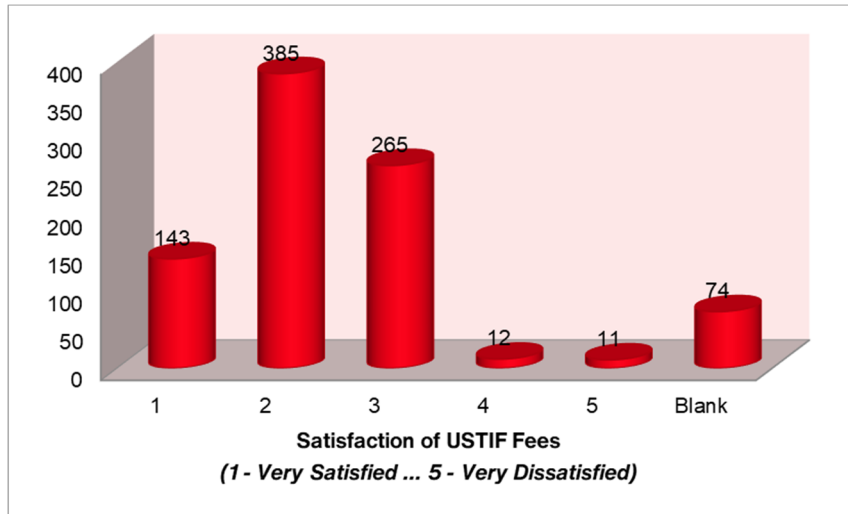
3. Understanding of EPA Regulations

Majority of the respondents, 81%, have a good understanding of the EPA Regulations (selecting 1 to 3).



4. USTIF Fees Reasonable

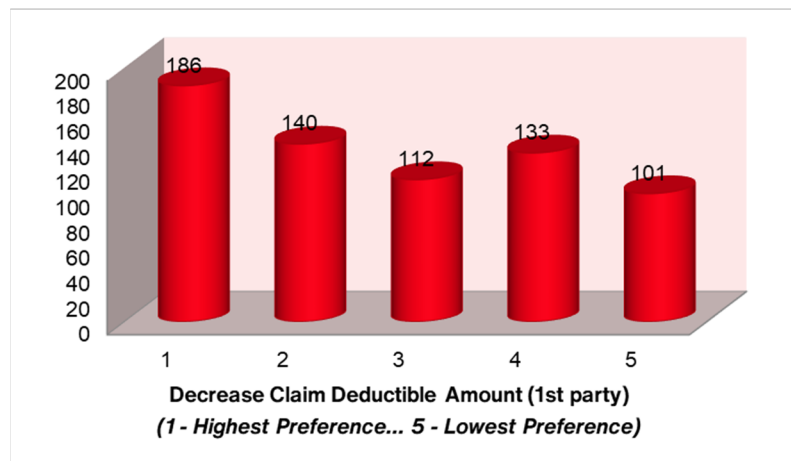
59% of respondents were satisfied (scored 1 or 2) with the reasonability of the USTIF fees. Interestingly, a higher percentage of respondents who had claims versus those who did not said they were satisfied with the USTIF fees (77% with claims vs 65% without claims). Lastly, the portion of dissatisfaction is small and about the same between those that filed claims (4%) and those with no claims (2%). A common reason for dissatisfaction was having to pay for an empty/unused tank.

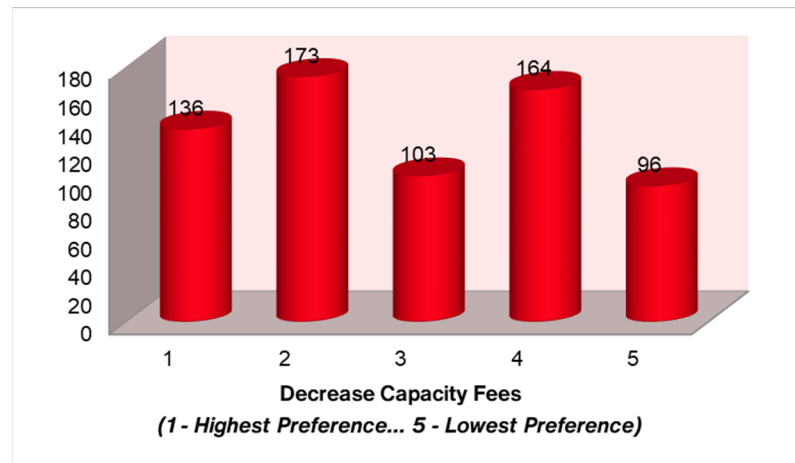
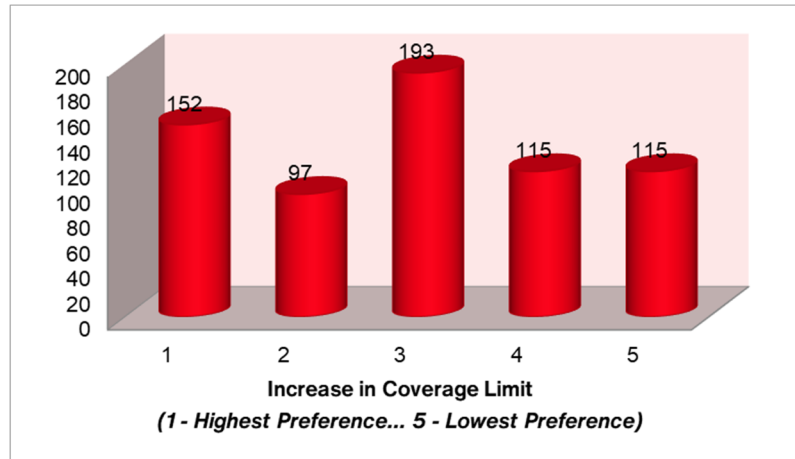
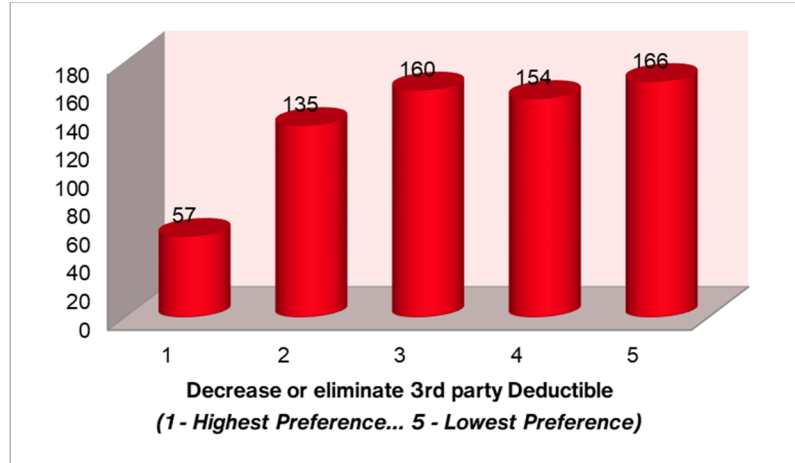


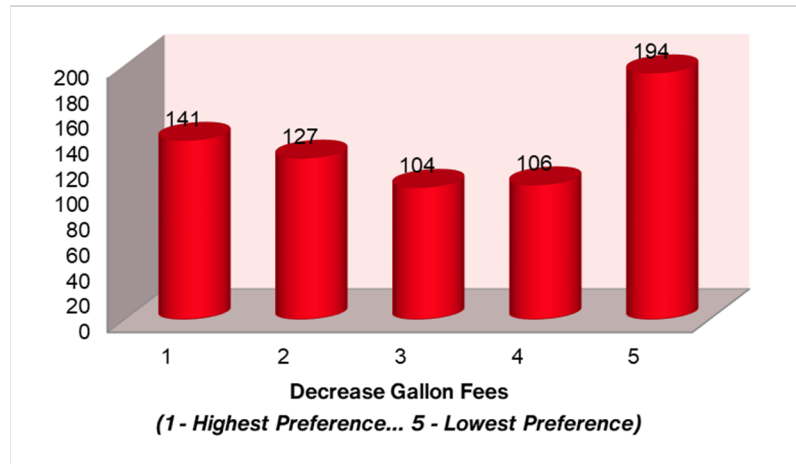
5. Coverage/Fee Structure Modification

On average, decrease claim deductible amount (1st party) is the most preferred modification of the coverage and/or fee structure. Decrease in capacity fees was a close second in terms of preference.

Overall, the least preferred modification is to decrease or eliminate the 3rd party deductible and the second least preferred modification was to decrease the gallon fees.



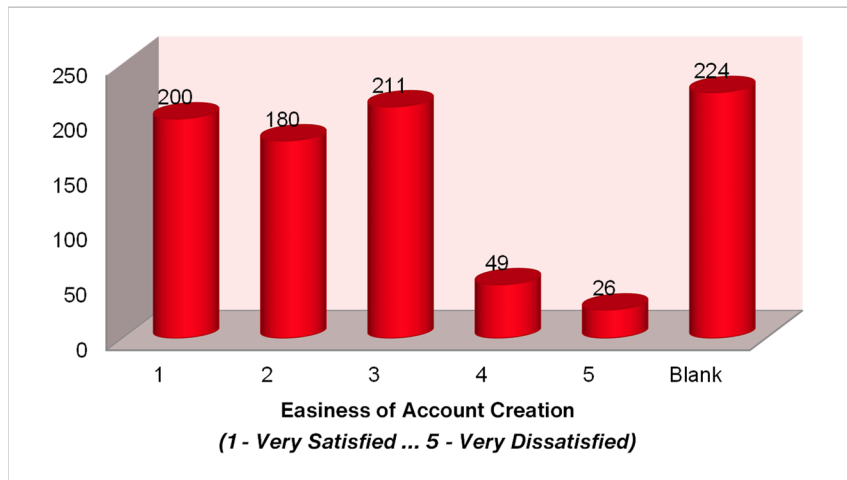




6. New Fee Billing System (FBS)

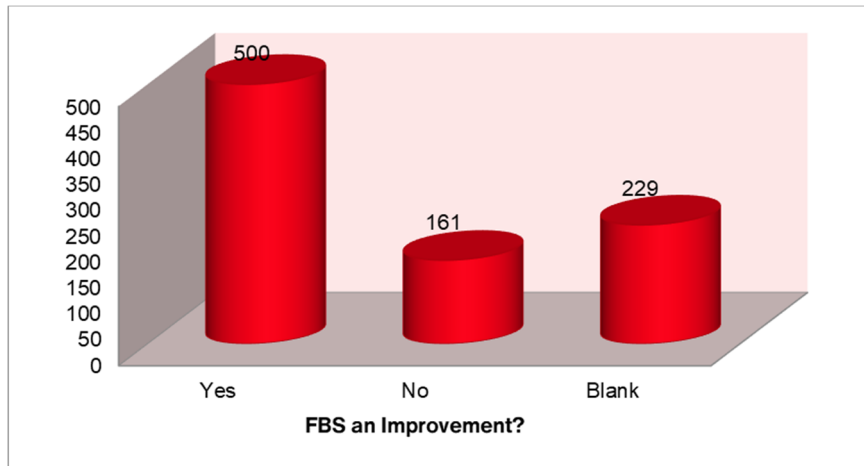
a) Ease of Account Creation

57% of respondents found it easy to create an account (scored 1 or 2), 32% of respondents found it neither easy nor difficult, and 11% found it difficult.



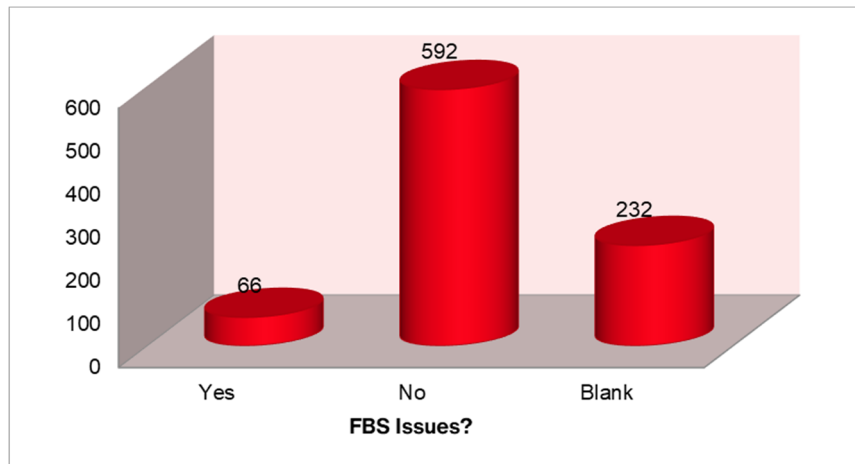
b) Improvement Over Old System

Majority of respondents (76%) found the FBS to be an improvement over the prior system. Out of 87 that explained their Yes response, 61 described the new system as better/easier. Out of the 161 No's, 21 preferred the old system and about a third of which claimed to not be computer savvy. 8 respondents say they still need help with the new system. Several respondents mentioned they've had issues, particularly trouble logging in.



c) Issues with new FBS

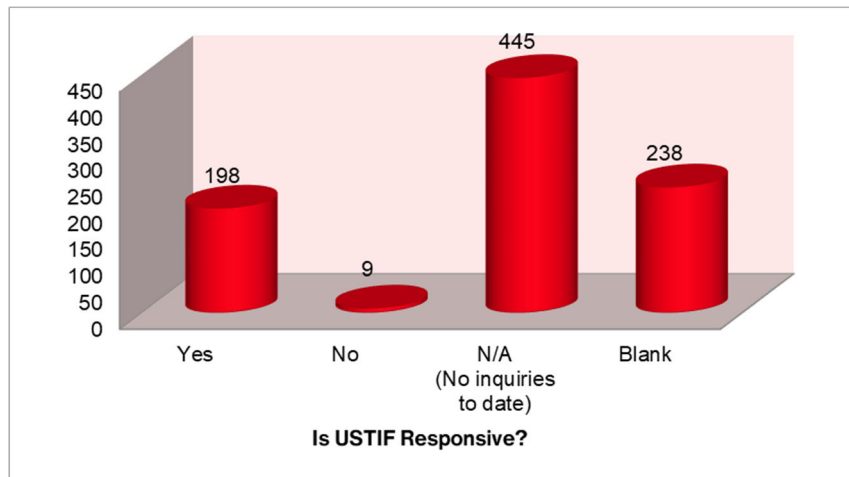
Most respondents have not had any issues. However, for those respondents experiencing issues, login, system, and payment issues were most commonly cited.



7. USTIF Responsiveness

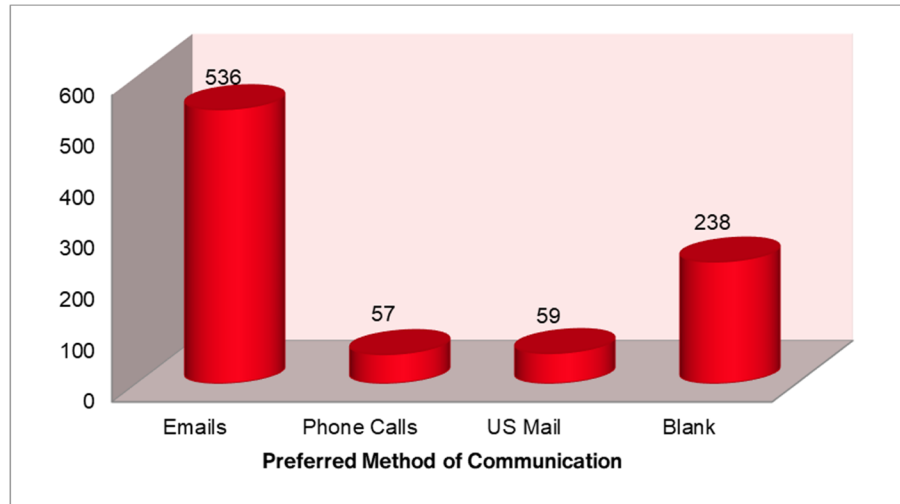
Only 1% of respondents said USTIF is not responsive. Out of the 9 respondents that said USTIF is not responsive, only one has filed a claim. Out of the 70 respondents that have filed a claim, only one said USTIF is not responsive. A few respondent said USTIF takes too long to get back to them. About a quarter said USTIF was responsive (22%) and about three quarters didn't answer the question or have not had any inquiries to date (77%).

There were no names listed as “not responsive”. The following names were noted as being responsive: “Bob”, “Bob Sabatini”, “Lallan Yadav”, “Steve Donnelly”, “Lisa Fry”, “Lis Frye”, “Matt”, “Micheal”, “Robert Sabatini”.



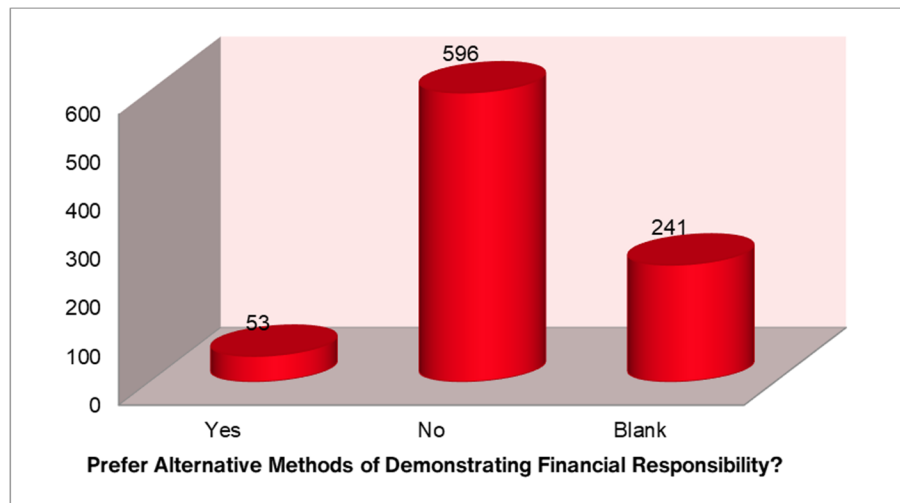
8. Preferred Method of Communication

Majority of respondents (82%) said email was the preferred method of contact. US Mail came in 2nd with 9% and phone calls in 3rd with 9%.



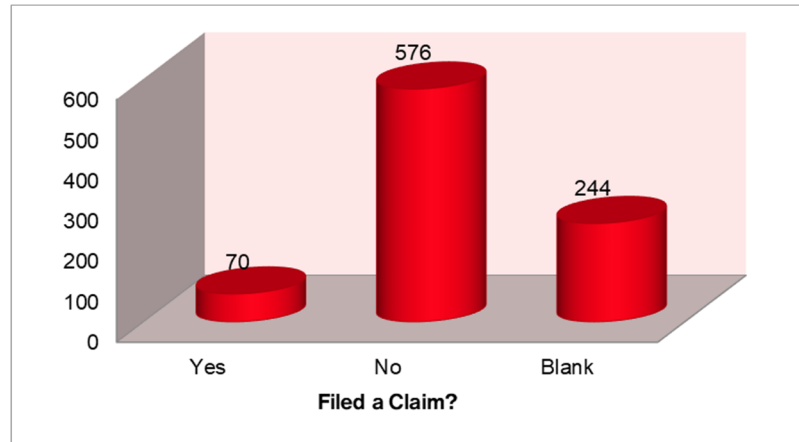
9. Alternative Methods of Demonstrating Financial Responsibility

Most respondents (92%) indicated they preferred the current methodology for demonstrating financial responsibility. A few of the respondents were unsure what the current methodology is while most respondents that prefer an alternative nominated Insurance Coverage.



10. Claims Filed

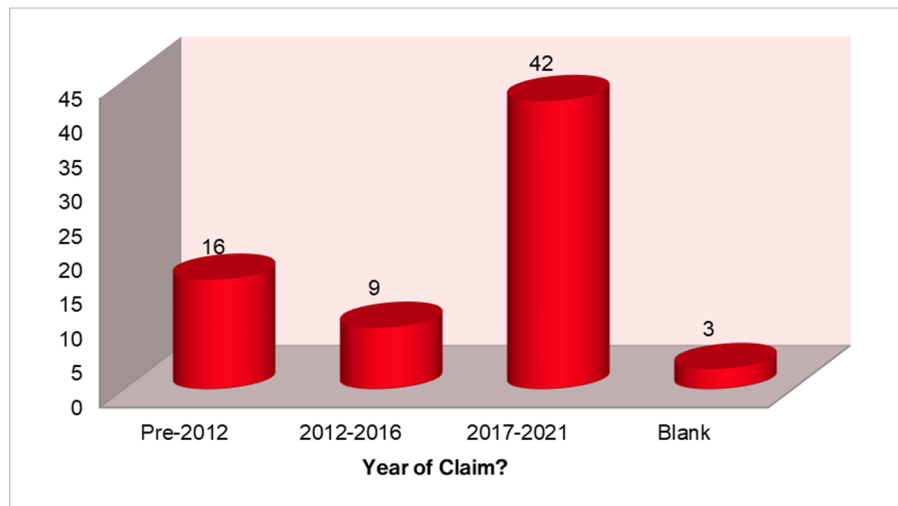
11% of respondents have filed a claim.



The following questions were asked only of those who indicated they filed a claim.

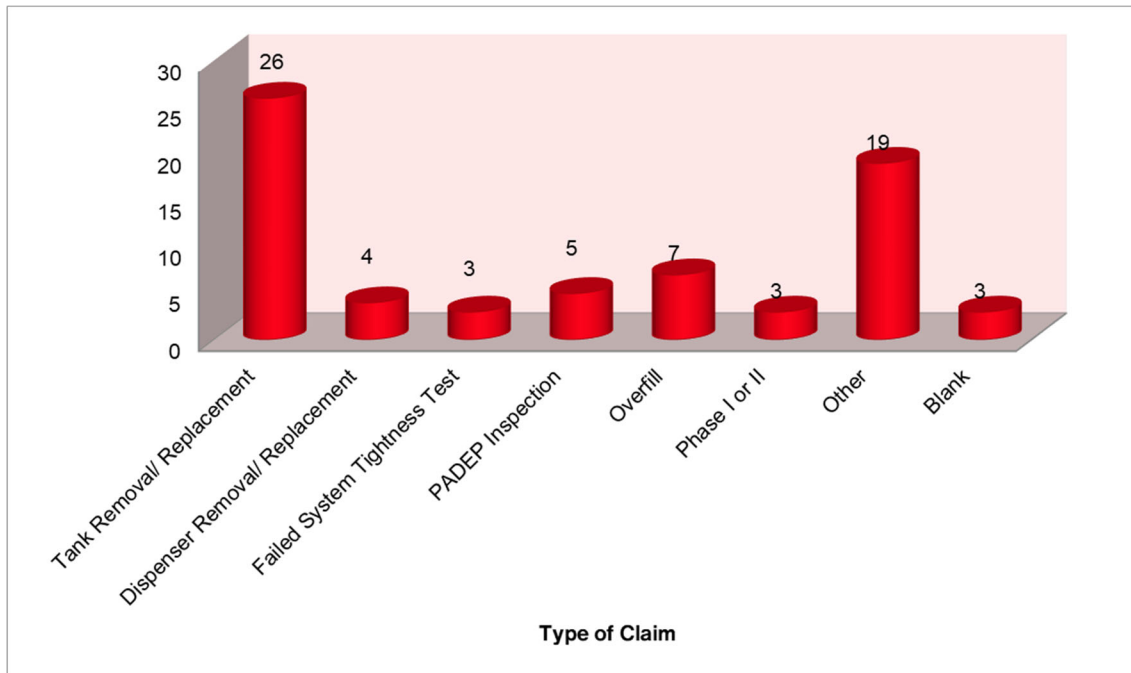
a) Year of Claim

Majority of the claims were filed between 2017-2021.



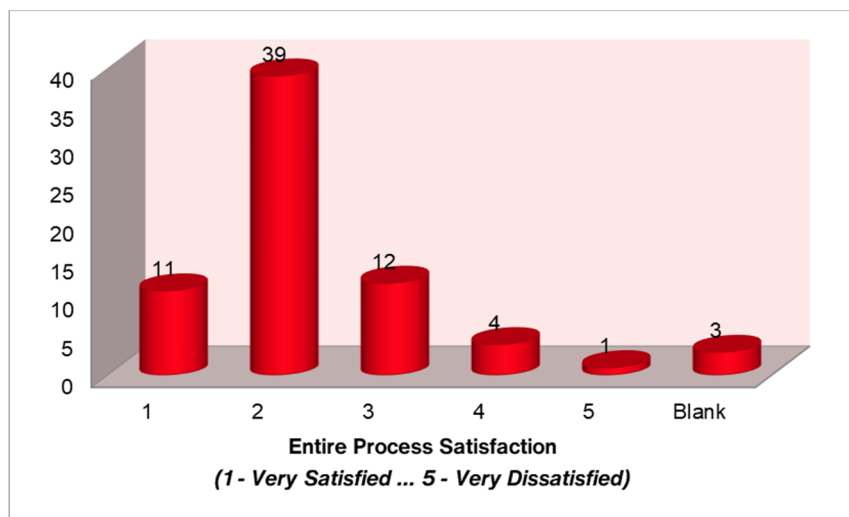
b) Type of Claim

Majority of the claims were Tank Removal/Replacement. Most of the claims labelled as “Other” were leaks.



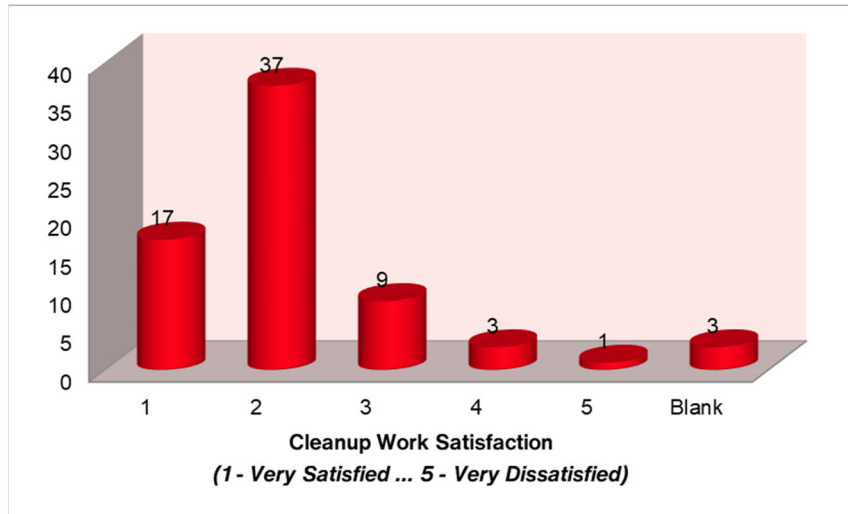
c) Entire Process (Claims Handling, Cleanup, & Payment of 3rd Party Liability Claims)

Majority of respondents (75%) were satisfied (scored 1 or 2) with the entire process, as described above, while 8% of respondents were dissatisfied (scored 4 or 5).



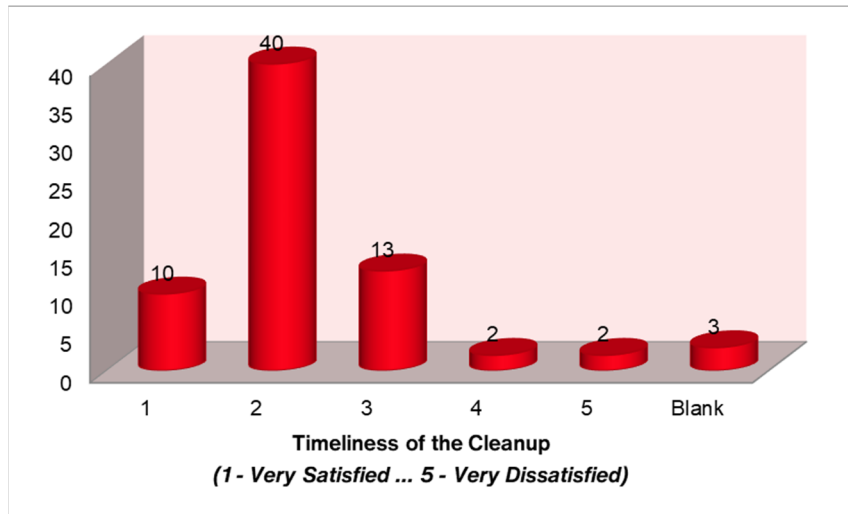
d) Cleanup Work Performed

Majority of the respondents (81%) were satisfied (scored 1 or 2) with the cleanup work performed, while only 6% were dissatisfied (scored 4 or 5).



e) Timeliness: Completion of Cleanup

Majority of the respondents (75%) were satisfied (scored 1 or 2) with the timeliness of the cleanup work performed, while only 6% were dissatisfied (scored 4 or 5).



f) What Claimants Liked Most About the Claim Process

- Timeliness/quickness/easiness
- Complete job done with as little interruption as possible
- Being kept informed during the process
- Handled by a third party

g) What Claimants Liked Least About the Claim Process

- Lengthy process
- Costly and unnecessary spending
- Excessive questions and requested information/paperwork
- Reimbursement process – lack of standard rates and poor communication
- Dollar limit resulted in a site specific determination rather than a general release
- Not being in the loop with the station operator and the cleanup crew

h) How can USTIF Improve the Claim Process?

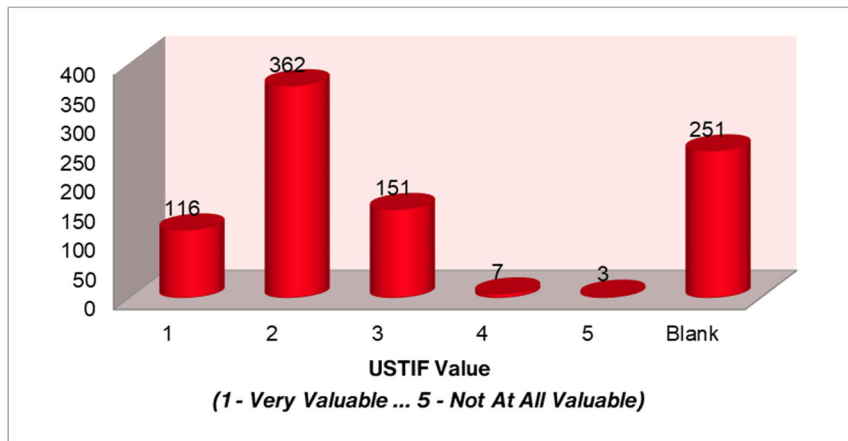
- Quicker review and turnaround time.
- Better communication with all parties involved from station owner to current operator. Provide more transparency into the expected length of time to approve and why a claim is in limbo.
- Better documentation of the process; step by step - detailed here's what to do and what is needed.
- USTIF should provide a list of approvable contractor rates. Will help both remediation contractors and tank owners know what they can expect USTIF to cover.
- Better determination of lasting effect of treatments/repairs.
- Prevent environmental companies from taking advantage of USTIF

11. Value of USTIF

75% of respondents feel the service USTIF provides is valuable to the public. Only 2% of respondents feel that USTIF is worthless. 88% of respondents that have filed a claim find it very valuable or valuable.

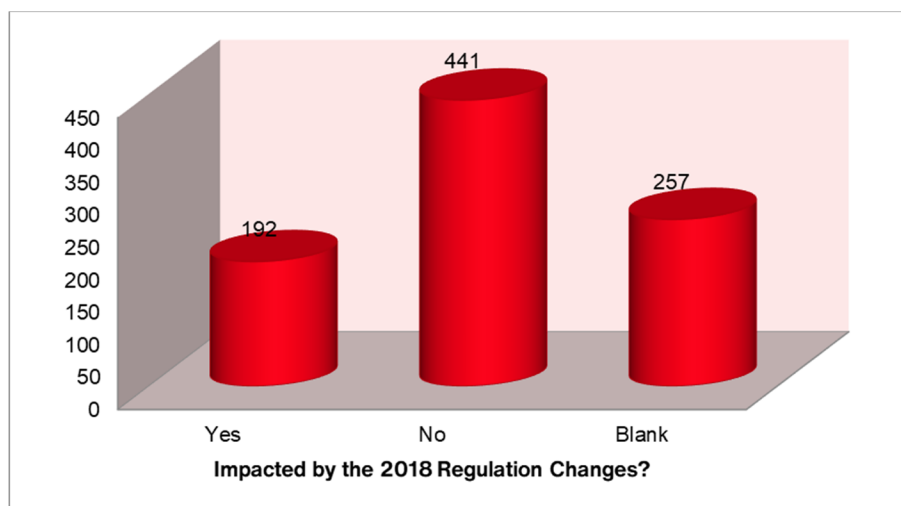
Common reasons for finding value in the USTIF include availability of insurance, environmental protection, public good, ensures accountability of clean up and peace of mind.

One respondent who felt the USTIF is worthless cited it does not cover a lot of the remediation process when there is a spill.



12. 2018 Regulation Changes

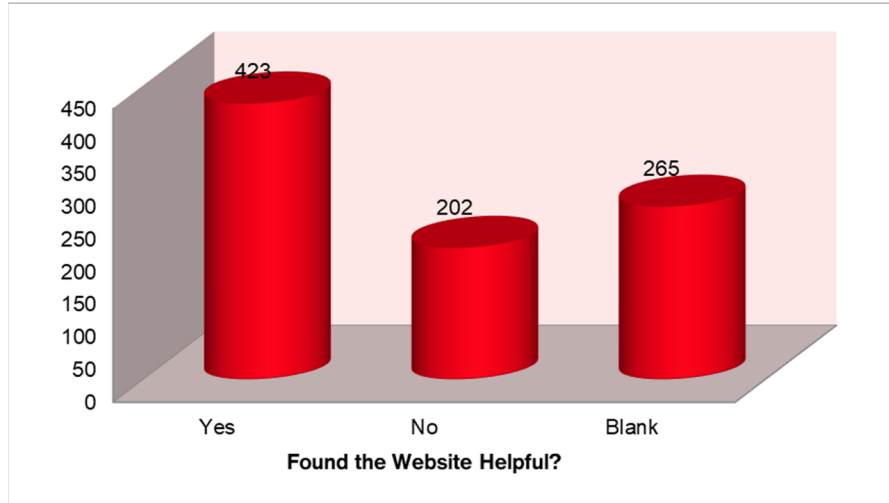
Majority of respondents were not impacted by the 2018 regulation changes (DEP requirements around training, inspections, etc). Most respondents that have been impacted cited additional work/training or cost/time burden.



13. Website

a) Helpfulness of Website

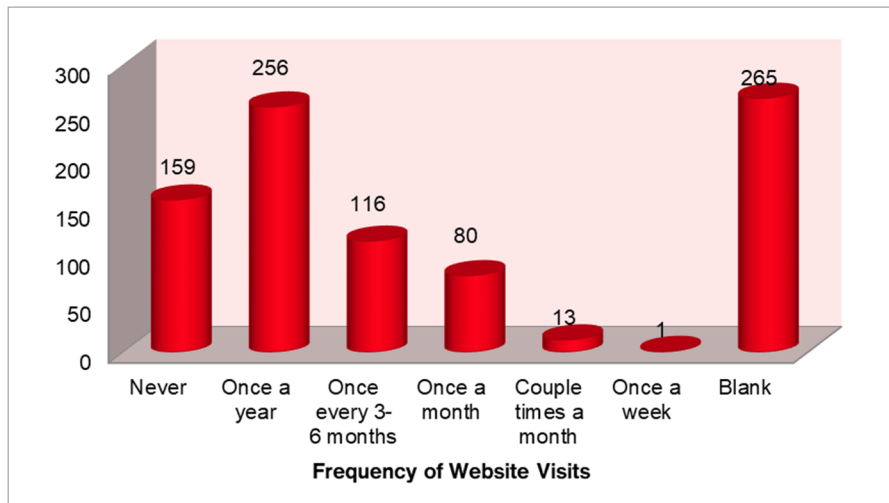
Majority (68%) of respondents have found the website to be helpful.



b) Frequency of Website Visits

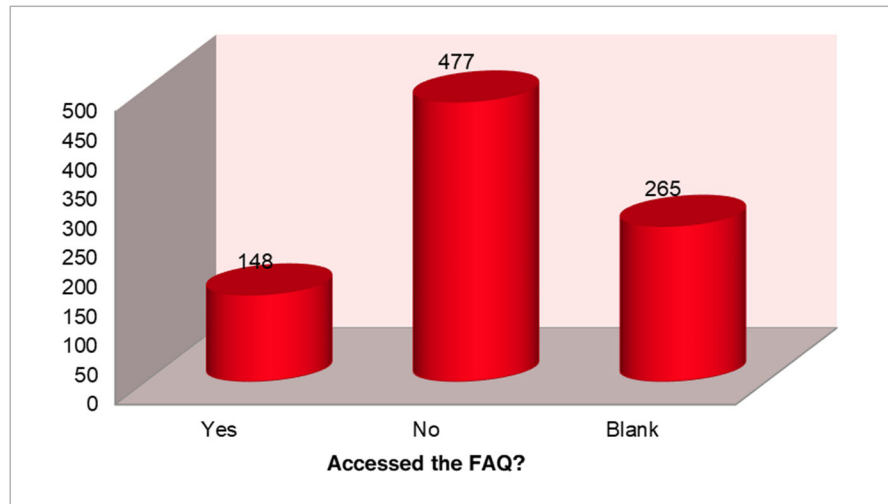
Majority (60%) of respondents only visit the website about 1-4 times a year. 15% of respondents visit the website at least once a month. 25% of respondents never visit the website.

87% of respondents that don't find the website to be helpful have either never visited or only visit once a year. 92% of respondents that found the website to be helpful have visited the website.



c) FAQ

Majority of respondents (76%) have not accessed the FAQ. 86% of respondents that accessed the FAQ also found the website to be helpful.



d) Desired Additional Information

- Emails with what's new
- Any updates on the tanks and stations so that they can update them before inspections.
- Gallon fees reported by others, so that it can be easily confirmed that the fees are being submitted.
- Contact info (phone numbers)

e) Suggestions

- Simplify – many of the people paying and filing do not have the knowledge/education to follow what may be common verbiage for others.
- Paper payment option
- Get on the same page as PA DEP so there are no issues on remediation jobs.
- Allow the same email address to be used on multiple corporate accounts.
- For small operators there needs to be a list of all requirements each year. They are at the mercy of the inspectors with what they must do to be in compliance.
- Lower the cost

f) Any Other Comments

- Haven't accessed the website yet but will do so now.
- The PA USTIF program far exceeds any other options for UG tank liability coverage in other states.
- In a timely manner, email any new regulations to all registered tank owners so they are aware of them and have plenty of time to comply.



Performance Review Findings

Funding Adequacy

As discussed earlier, the fund's cash and invested assets totalled \$484.1 million as of June 30, 2021. On June 30, 2021 the outstanding principal and interest on the \$100 million General Fund Loan from 2002 was entirely repaid and was a contributing factor to eliminating the unfunded liability. As of June 30, 2021, USTIF's assets now exceed its liabilities by \$95.4M on an undiscounted basis.

USTIF collects fees based both on a flat charge per owned tank as well as a flat per gallon throughput charge. Assuming the number of tanks and gallons sold remain constant, the annual fees collected will also remain flat. In contrast, cleanup costs tend to increase over time due to general economic inflation, in the absence of cost containment efforts. Eventually, cleanup costs are expected to exceed the fees collected and USTIF will be forced to draw on its assets to cover the difference.

During September 2003, the Board established a fee setting objective requiring the Fund maintain positive Cash and Invested Assets for a prospective period of at least five years. According to the June 30, 2021 actuarial report, it is not expected that the fund will deplete its asset base and enter a negative cash flow position during the 20 year projection horizon.

An actuarial report is prepared once a year to estimate the total amount yet to be paid to clean up spills reported to date. As of June 30, 2021, this unpaid claim estimate was \$313.6 million and when combined with other liabilities of the fund totals \$388.6 million. The difference between total liabilities and total assets represents the fund's surplus of \$95.4 million.

Over the 5 year review period claim payments decreased from \$33.3 million to \$30.8 million, likely due at least in part to cost control measures introduced and expanded by USTIF during the period.

USTIF collects fees from tank owners of roughly \$57 million per year (average over the review period). In July of 2017, USTIF transitioned to a new web-based Fee Billing System. All USTIF program participants now have online access to their accounts and have the ability to make electronic payments directly through the system. Distributor reporting has changed from reporting one lump sum amount (number of gallons distributed) under the "honor" system, to an exact reporting format that tracks deliveries down to the specific tank level. The new system is helping to ensure that distributors are reporting fees correctly and eliminating instances where facility owners are being undercharged or overcharged. The FBS has improved USTIF's ability to collect all fees to which it is entitled.

Duplication of Services

Currently, participation in the fund by tank owners and operators is mandatory and no commercial insurance market exists for similar coverage. While there are a small number of firms writing private insurance for pollution liability, the coverage offered comes with some limitations (i.e. coverage is often excess, it does not apply to releases before the coverage date, and it excludes faulty workmanship). Since



the coverage provided by USTIF is more comprehensive and there is nothing else in the market providing the same level of service, there is little duplication of services at present.

Demonstrated Need for the Program

During the 1980's, the EPA found that a significant number of USTs were either leaking or nearing the end of their useful lives; many of these USTs stored fuel. Given that a significant portion of the US population relied on ground water for drinking, contamination of these water sources by leaking USTs posed a significant health risk. This led Congress to act by establishing a UST regulatory program as part of the Resource Conservation and Recovery Act. The EPA was given authority to establish operating requirements and technical standards for tank design and installation, leak detection, spill and overflow control, corrective action, and tank closure. All tanks had to comply with leak detection regulations by 1993 and all tanks installed prior to 1988 had to be upgraded with spill, overflow, and corrosion protection, be replaced, or closed by the end of 1998. The EPA established minimum financial responsibility requirements of \$1 million to ensure UST owners and operators are able to pay the cost of corrective action and compensate third parties for injuries and property damage caused by leaking tanks. Many states opted to establish financial assurance funds to satisfy this financial responsibility requirement.

Demonstration of financial responsibility is required by the EPA. USTIF has a number of characteristics that benefit fund participants, especially small operators. For instance, availability of coverage and post leak coverage disputes are not significant issues. In addition, USTIF and DEP feel they have developed a close working relationship that would likely be difficult to achieve between DEP and multiple organizations. Fund participants who responded to our survey were generally pleased with USTIF's claim handling process and the timeliness of remediation efforts, although the impression of some was that USTIF and DEP could further improve their level of cooperation. Additionally, further communication about the claim process (e.g., timelines, documents needed to file a claim, etc) might help manage participants' expectations and help them understand why a claim might be approved or denied.

The threat from leaking underground storage tanks is evolving despite upgraded UST designs that include features such as double walls, improved anti-corrosion and leak detection technology, thus decreasing the likelihood of spills getting into the environment undetected. Emerging challenges include the mandated increase in use of alternative fuels such as ethanol and biofuels, which pose problems as they can be more corrosive than gasoline, thus increasing the risk of UST leaks in the future. In the EPA's revised 2015 UST regulation, owners must now demonstrate their UST system is compatible with certain fuels before storing them. As newer fuels with different chemical properties enter the marketplace, it is important for owners to ensure that there are no releases due to stored fuels being incompatible with the UST system. Furthermore, the new regulation requires owners and operators to test within 30 days if there has been a repair to a spill or overflow equipment and secondary containment area.

Given the goal of cleaning up UST spills quickly and efficiently, the potential for maintaining and improving the close working relationship between USTIF and DEP is desirable. In addition, having a single entity review and handle all UST claims may result in identifying and addressing emerging issues much more quickly. For instance, the current population of tanks continues to age and may present additional risk in the future. Providing broad coverage to all UST owners and operators ensures that, in the event of a spill, proper remediation will take place thus protecting the environment as well as the Commonwealth.

Negative Impacts if Program is Dissolved

Before discussing the potential negative impacts that may result from the dissolution of USTIF, we feel it is worth highlighting that the majority of program Participants who responded to the online survey (92%), preferred to continue to utilize USTIF as a means to demonstrate financial responsibility. In fact, a number of compliments were directed at the claims adjusters and at USTIF's efficiency.

If the fund were dissolved, tank owners would still be subject to the EPA's financial responsibility regulations and would need to demonstrate their financial responsibility by securing one of the alternate methods acceptable to the EPA:

- Insurance coverage
- Guarantee
- Surety bond
- Letter of credit
- Trust fund
- Passing of a financial test

Each of the alternatives listed above involves additional cost due to: 1) the need to shop around for the best price (insurance, surety bond, and letter of credit), 2) prepare additional supporting documentation (guarantee, trust fund, and financial test), or 3) setting up a trust fund and hiring financial professionals to ensure an adequate balance is maintained. Several of the alternatives may suffer from affordability or availability problems, especially for smaller owners who are not viewed as large enough to have credible loss histories. Insurance policies need not be standardized across companies and may incorporate different policy language that restricts coverage in different ways, i.e. certain losses might be covered under one policy, but not another. Some of the alternatives may encourage non-disclosure of leaks due to the resulting increase in future year's costs which, if not properly remediated, would threaten neighbouring properties and water supplies. The bottom line is that dissolving the USTIF would ultimately result in higher costs to the tank owners and operators in terms of the resources needed to attain coverage and the additional costs associated with the insurance as well as putting the environmental assets of the Commonwealth at risk.

Benefits Provided by Program

Many of the benefits provided by the program have been described in detail elsewhere in this report. Therefore, only a quick listing is given here:

1. Near universal participation by tank owners under the current program
2. Prompt reporting of leaks, which is encouraged by USTIF's coverage language and claims procedures, i.e. no coverage for very late reported claims.
3. Simple fee structure - The current system of charging fees based strictly on the amount of throughput is easy to explain and understand, notwithstanding potential difficulties of verifying the per gallon or tank capacity fees (the new Fee Billing System addresses this).
4. Availability of coverage - Fund participants are able to purchase coverage and demonstrate financial responsibility to the EPA.
5. Consistent coverage language, fewer coverage disputes
6. No need to expend time and resources shopping for coverage



7. USTIF works with DEP's regional offices during the remediation process with the goal of timely and cost-effective cleanup responses.



Appendix A – USTIF Performance Review Survey Questions

Two separate questionnaires were prepared for two groups of USTIF stakeholders: 1) USTIF Board Members, Deputy Insurance Commissioner, and USTIF's Executive Director, and 2) USTIF Participants. The questions contained in each of these surveys are documented below.

Board Members, Deputy Commissioner, Executive Director

Questions for this group of stakeholders consisted of both "Yes/No/Don't Know" and "Comment" types as indicated in bold below.

1. Is there adequate funding for the programs? (USTIF, TIIP, DEP Allocations, Voluntary Heating Oil Program) (**"Yes/No/Don't Know"**)
 - a. Given the current cash position, are you concerned some programs may not have adequate funding in the future? (**"Yes/No/Don't Know"**)
If so, over what time-frame? (**"Comment"**)
Please describe any concerns. (**"Comment"**)
 - b. How confident are you that USTIF collects all fees to which it is entitled? If you are not confident, what concerns you, how might your concerns be addressed, and how much might this be affecting the adequacy of funding for the programs? (**"Comment"**)
 - c. What are your thoughts on the current fee structure? (**"Adequate/Inadequate/Redundant"**)
Please explain. (**"Comment"**)
 - d. Do you foresee the need for any changes to the fee structure in the future? (**"Yes/No/Don't Know"**)
Please explain. (**"Comment"**)
 - e. What will provide a broader benefit to program participants: lower deductibles (1st party & 3rd party), reduction in capacity and/or gallon fees, or increase in coverage limit? (**"Lower Deductibles/Fee Reduction/Increase Coverage/No Change"**)
2. Do you feel there is any duplication of services provided by USTIF? (**"Yes/No/Don't Know"**)
 - a. Considering the services provided by each of the programs, are you aware of any duplication of services? (**"Comment"**)
3. Is there a demonstrated need for the programs? (**"Yes/No/Don't Know"**)
 - a. In the absence of the Fund, UST owners and operators would still be subject to EPA's financial responsibility regulations. Do you feel the other possible methods of demonstrating financial responsibility to the EPA (I.e. insurance coverage, guarantee,



- surety bond, letter of credit, trust fund, or passing a financial test) would work as well as the Fund? Please explain. (**“Comment”**)
- b. Would you prefer any of the alternatives for demonstrating financial responsibility under EPA regulations? Why or why not would you prefer the alternative? (**“Comment”**)
4. Do you foresee any negative impact if the USTIF were dissolved? (**“Yes/No/Don’t Know”**)
- a. What impacts do you foresee if the USTIF were dissolved? (**“Comment”**)
5. The USTIF was created to assist UST owners and operators demonstrate financial responsibility requirements established by the EPA (and DEP) to cover the cost of corrective action and pay third party liability in the event that an UST leaks.
Do you feel the USTIF is providing benefits as intended when it was conceived? (**“Yes/No/Don’t Know”**)
- a. How well has the USTIF served its purpose? (**“Comment”**)
- b. How confident are you that eligible leaks are addressed in a timely and cost effective manner? (**“Comment”**)
- c. What concerns do you have regarding response time, adequacy of corrective action, issues regarding on-going monitoring of sites? (**“Comment”**)
- d. Do the limits and deductibles currently in use provide adequate coverage for claimants? (**“Comment”**)
6. The new Fee Billing System (FBS) was created to streamline the billing process (reduce costs and improve efficiencies) and is intended to result in more accurate reporting and revenue collection.
- a. Do you believe the new FBS will achieve its intended purpose? (**“Comment”**)
- b. Has the new FBS improved USTIF’s ability to collect all fees to which it is entitled? Why or why? (**“Comment”**)
- c. Do you believe it has been well received by the fund participants? (**“Comment”**)
- d. Have there been any challenges with the adoption and integration of the new Fee Billing System? (**“Comment”**)
7. What challenges, if any, do you foresee the USTIF facing in the future? (**“Comment”**)

Fund Participants & Claimants

Questions for this group of stakeholders consisted of “Scale 1..5”, “Yes/No” and “Comment” types as indicated in bold below.

1. How many tanks do you currently own/operate? (**“1-3, 4-6, 7-11, 12-21, 22-49, 50-1000”**)
2. How many locations do you currently own/operate? (**“0-1, 2-3, 4-10, 11-20, 21-50, 51-100, 100+”**)
3. How well do you feel you understand EPA regulations addressing the cleanup of underground storage tank leaks and the requirement to demonstrate financial responsibility? (**“SCALE 1 [Expert Understanding]..5 [No Understanding]”**)



4. How satisfied are you that the fees paid to USTIF are reasonable for the coverage received? **(“SCALE 1 [Very Satisfied]..5 [Very Dissatisfied]”)**
 - a. If not, please explain. **(“Comment”)**

5. Given the option, would you be interested in modifying the coverage and/or fee structure provided by USTIF? If so, please rank the items below in order of preference:
 - **Decrease Claim Deductible Amount (1st party)**
 - **Decrease or eliminate 3rd party Deductible**
 - **Increase in Coverage Limit**
 - **Decrease Capacity Fees**
 - **Decrease Gallon Fees**

6. Fee Billing System
 - a. How easy was it to create an account? **(“SCALE 1 [Very Satisfied]..5 [Very Dissatisfied]”)**
 - b. From your perspective, has the new Fee Billing System been an improvement over the old system? **(“Yes/No”)**
 - i. Please explain. **(“Comment”)**
 - c. Have you had any issues with the new billing system? **(“Yes/No”)**
 - i. Please explain. **(“Comment”)**
 - d. Do you have any additional comments/feedback on ways to improve the new billing system? **(“Comment”)**

7. Do you find USTIF responsive to your inquires? **(“Yes/No/N/A”)**
 - a. If yes, is there anyone in particular who was responsive? Please enter name(s). **(“Comment”)**
 - b. If no, is there anyone in particular who was not responsive? Please enter name(s). **(“Comment”)**

8. How would you prefer to interact with USTIF? **(“Emails/Phone calls/US Mail”)**

9. Would you prefer an alternative method of demonstrating financial responsibility for covering the cleanup of underground storage tank leaks and the payment of related third party liability claims? **(“Yes/No”)**
 - a. If so, what would you prefer? **(“Insurance coverage, guarantee, surety bond, letter of credit, trust fund, or passing a financial test”)**
 - b. Why? **(“Comment”)**

10. Have you ever filed an USTIF claim? **(“Yes/No”)**

If so,

 - a. What year was your claim? **(“2017-2021, 2012-2016, pre-2012”)**
 - b. What was your claim about? **(“Tank Removal/Replacement, Dispenser Removal/Replacement, Failed System Tightness Test, PADEP Inspection, Overfill, Phase I or II, Other [explain]”)**



- c. How satisfied were you with the process, including timeliness of claims handling process, cleanup and payment of third party liability claims. (**“SCALE 1 [Very Satisfied]..5 [Very Dissatisfied]”**)
 - d. How satisfied were you with any cleanup work performed? (**“SCALE 1 [Very Satisfied]..5 [Very Dissatisfied]”**)
 - e. Do you feel it was completed in a timely manner? (**“SCALE 1 [Very Satisfied]..5 [Very Dissatisfied]”**)
 - f. What did you like most about the process? (**“Comment”**)
 - g. What did you like least about the process? (**“Comment”**)
 - h. In what ways might USTIF improve the process? (**“Comment”**)
11. How valuable do you feel the service USTIF provides to the public is? (**“SCALE 1 [Very Valuable]..5 [Not At All Valuable]”**)
- a. Please explain. (**“Comment”**)
12. Have the 2018 regulation changes (DEP requirements around training, inspections, etc) impacted you? (**“Yes/No”**)
- a. Please explain. (**“Comment”**)
13. USTIF implemented a dedicated website providing participants access to account information and online claim reporting.
- a. Have you found the website helpful? (**“Yes/No”**)
 - b. On average, how frequently do you visit? (**“Once a week, Couple times a month, Once a month, Once every 3-6 months, Once a year, Never”**)
 - c. Have you accessed the FAQ’s? (**“Yes/No”**)
 - d. What other information would you like to see?
 - e. Suggestions for improvement.
 - f. Please provide any other comments.



Appendix B – USTIF Performance Review Survey Responses

Appendix B documents the responses of those stakeholders who responded to the surveys. Detailed responses are available upon request.

Board Members, Appointees, Deputy Commissioner, Executive Director

A total of 19 Surveys were sent to the following USTIF Board Members, USTIF Board Alternates, Ex-Officio Members, Appointees, and the Executive Director of USTIF. As of November 1, 2022, responses have been received from all but 1 Board Member, 2 Ex-Officio Members and 4 Board Alternates. The survey results are representative in the sense that either a Board Member or Alternate (or both) responded from almost all of the below groups.

8 Board Members & 5 Board Alternates

1. Associated Petroleum Industries of PA – **One Response**
2. Alliance of Automotive Service Providers of PA – **One Response**
3. Public Member – **Two Responses**
4. PA Petroleum Association – **One Response**
5. PA Farm Bureau, PA State Grange, PA Farmers Union – **No Response**
6. PA Food Merchants Association (PFMA) – **Two Responses**
7. Tank Installers of PA – **Two Responses**
8. Local Government Knowledgeable About Storage Tanks – **One Response**

Two Ex-Officio Members & Two Alternates

1. Department of Environmental Protection, Ex-Officio Member – **No Response**
2. PA Insurance Department, Ex-Officio Member – **One Response**

One Appointee

1. Senate President Pro Tempore – **Vacant**
2. Senate Minority Leader – **Vacant**
3. Speaker of the House – **One Response**
4. House Minority Leader – **Vacant**

The Executive Director of USTIF – **One Response**



Appendix C – Programs

Section 704 of the Storage Tank and Spill Prevention Act, Act 32 of 1989, 35 P. S. §§6021.101 et seq., as amended, (“Act”) created the Underground Storage Tank Indemnification Fund.

Underground Storage Tank Indemnification Fund

Section 704 of the Storage Tank and Spill Prevention Act, Act 32 of 1989, 35 P. S. §§6021.101 et seq., as amended, (“Act”) created the Underground Storage Tank Indemnification Fund to assist owners and operators in meeting the financial responsibility requirement. USTIF derives its funding from fees, both on a per installed tank basis as well as on a throughput basis, recovered costs, and interest income earned on invested assets.

The Fund makes claim payments to eligible UST owners or operators for damages caused by a release from their UST. To be eligible, the release must have occurred on or after February 1, 1994. In addition, there are other statutory eligibility requirements. The USTIF indemnifies tank owners for third party liability that may occur when the release from a tank has injured another person or that person's property.

The USTIF covers reasonable and necessary costs for corrective actions to clean up contamination from leaking tank(s). It also covers claims for bodily injury and property damage that occur as a result of the release. The cost covered by the USTIF includes identifying the extent, nature and impact of the release and develops a remedial action plan for restoring the site. The USTIF will not cover any upgrade costs for the facility or any repair and maintenance work performed on the USTs, including tank removal.

Claim payments to eligible owners or operators shall be limited to the actual costs of corrective action and third party liability. Payments shall not exceed an annual aggregate of \$1.5 million for each owner and operator. The per occurrence limit is set at \$1.5 million. Claims are subject to a deductible of \$5,000 per tank.

The USTIF has the option to defend third party lawsuits. The cost of this defense does not affect the third party liability limits provided. The USTIF may defend the tank owner until the coverage limit is exhausted.

Tank Installers' Indemnification Program

Provisions in Act 13 made it mandatory for all certified tank installers to participate in the Underground Storage Tank Indemnification Fund. This was passed into law on February 1, 1998 and the regulations became effective January 1, 2002.

The Tank Installers' Indemnification Program (“TIIP”) will give certified tank installers the same liability coverage as the tank owners. TIIP will indemnify certified companies/installers against any claims made as a result of alleged negligent work done on an underground storage tank up to \$1,500,000.



Claim settlements will be made on behalf of eligible certified tank installers, subject to a \$5,000 deductible. Claims will be processed in the same manner as in the Underground Storage Tank Indemnification Fund.

Department of Environmental Protection Allocations

a. Environmental Cleanup

Section 710 of the Act authorizes the Board to establish the Underground Storage Tank Environmental Cleanup Program for the purpose of ensuring corrective action is taken at underground storage tank facilities. The Board may allocate up to \$5,500,000 annually from the Underground Storage Tank Indemnification Fund for the Underground Storage Tank Environmental Cleanup Program as long as the allocation does not impede the fund's ability to pay claims. Certain sub-limits totaling up to \$2,500,000 are placed on how these funds may be spent. None of this allocation may be used to reimburse the DEP for administrative costs.

b. Catastrophic Release

A catastrophic release is one that imposes a threat to public health and safety and the environment where the department determines that the costs of the corrective action may exceed two times the limits established under section 704.

Section 710 of the Act also authorizes the Board to establish the Underground Storage Tank Environmental Cleanup Program and allocate up to \$5,500,000 annually from the Underground Storage Tank Indemnification Fund to be used by the Department of Environmental Protection for corrective action caused by a catastrophic release providing the allocation does not impede the fund's actuarial soundness and ability to pay claims. None of this allocation may be used to reimburse the DEP for administrative costs.

c. Pollution Prevention

Section 711 of the Act authorizes the Board to establish an Underground Storage Tank Pollution Prevention Program for the purpose of reimbursing eligible UST owners for the costs of removing regulated substances from sites and sealing the fill pipes of underground storage tanks which have not been upgraded to comply with the technical requirements of Federal and State regulations.

The Board may allocate up to \$1,000,000 annually from the Underground Storage Tank Indemnification Fund for the Underground Storage Tank Pollution Prevention Program as long as the allocation does not impede the actuarial soundness of the fund's ability to pay claims. Owners of six or fewer tanks are eligible. None of this allocation may be used to reimburse the DEP for administrative costs.



d. Investigation and Closure Costs

Section 713 of the Act authorizes the Board to reimburse the DEP up to \$7.0 million annually for its costs related to investigating, determining responsibility, overseeing remediation and third party response and closing out cases of spills and leaks related to storage tanks beginning in fiscal year 2007/2008.

Voluntary Heating Oil Tank Program

A Voluntary Heating Oil Tank Program has been offered by the Fund since 1995 to owners or operators of heating oil tanks with a capacity of 3,000 gallons or greater used for storing heating oil products for use on the premises. This program indemnifies owners or operators for any releases from their tanks.

The USTIF covers claims for corrective actions to clean up contamination from leaking tank(s). It also covers claims for bodily injury and property damage that occur as a result of the release. The cost covered by the USTIF includes identifying the extent, nature and impact of the release and developing a remedial action plan for restoring the site. The USTIF will not cover any upgrade costs for the facility or any repair and maintenance work performed on the USTs.

The USTIF coverage limits are \$1.5 million limit per tank per occurrence and \$1.5 million annual aggregate limit. Also, there is a \$5,000 corrective action deductible per tank and \$5,000 third party liability deductible.

The USTIF covers only underground heating oil tanks that chose to "opt in" or applied for coverage and were accepted into the USTIF.

Pay for Performance Program

The "Pay for Performance" (PFP) concept is not a new contracting philosophy. In fact, contracting officials in the private and public sector have been using PFP type contracts better known as "Fixed Fee" contracts for many years. However, the application of "Fixed Fee" or "Pay for Performance" contracts dealing with underground storage tank (UST) cleanups is new in Pennsylvania.

UST cleanups in Pennsylvania are typically paid by using "time-and-materials" agreements that can result in high cleanup costs, slow cleanup progress, and failure to reach cleanup goals. According to the Environmental Protection Agency, PFP cleanups reward contractors for quickly and efficiently reaching cleanup goals. PFP also produces faster cleanups that protect the public health and the environment. They enable the technical staff (DEP and USTIF) to focus attention on environmental results instead of on auditing contractors' activities and costs. PFP cleanups minimize paperwork and administrative costs and delays. PFP cleanup contractors profit from producing cleanups at a lower cost, because they get to realize the difference between their cost and the fixed price of the PFP cleanup.

There are many states that have implemented PFP programs for UST sites and more are interested. Early results appear to substantiate that PFP produces faster and lower cost cleanups. Additionally, staff time



is now concentrated on managing environmental risk and not on managing contractor performance and invoice review.



List of Reference Documents

The following documents were relied upon in carrying out the USTIF Performance Review 2022:

1. 2017 USTIF Performance Review dated December 5, 2017
2. Aon's Actuarial Analysis of USTIF's Liabilities as of June 30, 2021
3. USTIF Annual Reports: 2017-2021
4. USTIF Financial Statements: 2017-2021

In addition to the above documents, we have incorporated information gained from discussions with USTIF management.