



**Underground Storage Tank Indemnification Fund
Bulletin 4: Deductibles Related To
Third Party Claims/Access Agreements**

The purpose of this bulletin is to clarify the Pennsylvania Underground Storage Tank Indemnification Fund (USTIF) position with regard to deductibles involving third party claims, particularly in relation to access agreements between eligible tank owners and operators (hereafter referred to as claimants) 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 USTIF'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 claimant 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 USTIF's regulations (25 Pa Code Chapter 977), and therefore require the claimant to incur a second deductible for payment of a third party claim.

It is not uncommon for claimants or their consultants to enter into access agreements with off-site property owners that commit the claimant to significant monetary exposure. Careful consideration should be given to having an attorney review the scope of the agreement. If a claimant submits a reimbursement request to the USTIF for monetary expenses associated with an off-site access agreement, the request will be reviewed for reasonable and necessary costs under Chapter 977.33 of the Underground Storage Tank Fund; and, if the USTIF agrees to such a reimbursement request, a third party deductible may be applied.

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Bureau of Special Funds

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