

Underground Storage Tank Indemnification Fund

Bulletin 9: Disclosure of Abandoned Tanks

The purpose of this Bulletin is to provide guidance to claimants and their agents (for example, Pennsylvania Department of Environmental Protection (DEP) certified installers, consultants) for the disclosure to the Pennsylvania Underground Storage Tank Indemnification Fund (USTIF) of any known unregistered above ground or underground storage tank(s) at the site that is or has become known while the claim is pending or open.

It is USTIF's intent to be informed of any knowledge of any tank(s) or storage tank(s). The term "tank" or "storage tank" is to be interpreted broadly for USTIF's purposes and means any vessel that holds or held liquids. In accordance with DEP regulations, the tanks would be defined as either non-regulated or regulated (either registered or unregistered) tanks.

Upon receiving the initial report for a claim, USTIF, or its third party administrator (TPA), asks about any existing or any history of unregistered, abandoned or orphan above ground or underground storage tanks (unregistered tanks, includes non-regulated and regulated tanks) related to the property. The information provided by the claimant, or by and through their agents relative to unregistered tanks, must be accurate to the best of their knowledge, during the entire period while the claim is pending or open. Should the claimant or their agents become aware of any tanks previously unknown and undisclosed while the claim is pending or open, the newly discovered "tank" or "storage tank" must be reported to USTIF as soon as it is discovered, but in no case later than 15 days.

The DEP will require the disclosure of unregistered tanks that are regulated under the Storage Tank Act 32 to DEP. Due to the potential for any "tank" or "storage tank" as defined above, to be a source for contamination that may not be eligible for reimbursement by USTIF, all unregistered tanks, regardless of their apparent condition when they are discovered, must be reported to USTIF regardless of whether they are reported to the DEP.

After the initial report to USTIF noted above, a follow-up report to USTIF regarding the tank(s) unearthed or closed by removal, must be submitted. The follow-up report should include the results of representative soil samples collected as if the tank were a registered tank being closed in accordance with

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the April 1, 1998 Closure Requirements for Underground Storage Tank Systems (including, as appropriate adjacent to the sides, ends and beneath the tank and analyzed for appropriate DEP short-list compounds). A narrative of the discovery of the tank and a photographic log of any tank closure activities must also be communicated to USTIF in the follow-up report. The reasonable and necessary costs of the soil samples, narrative and photographic log of the unregistered tank(s) will be considered corrective action costs by USTIF. This information will be used in the eligibility investigation of the registered tank release claim. If the claim is ultimately determined to be eligible, these and other reasonable and necessary site characterization costs will be reimbursed. USTIF's statutory and regulatory authority to reimburse for corrective action costs does not include the cost associated with the removal of the unregistered tank. That expense remains as the claimant's responsibility.

Failure to report knowledge of any and all tanks to USTIF during the period while eligibility of a claim is pending or open, or to provide the results of the soil sampling, narrative and photographs noted above, demonstrates a lack of cooperation by the claimant and may result in the denial of the claim or cessation of further payments on a claim.

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