

# Petroleum Underground Storage Tank Release Compensation Board

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- All funding through the Agency Fund Group
- To date, more than \$125.3 million has been disbursed for the reimbursement of corrective action costs

## OVERVIEW

### **Duties and Responsibilities**

The Petroleum Underground Storage Tank Release Compensation Board (PUSTRCB) was established in July 1989 and consists of nine members appointed by the Governor. The State Treasurer and the directors of the Department of Commerce and the Ohio Environmental Protection Agency serve as ex-officio members. The Board serves Ohio's underground storage tank (UST) owners and operators through administration of the Financial Assurance Fund (FAF) under authority from R.C. § 3737.90 to 3737.99 of the Revised Code. The fund provides a mechanism for all UST owners and operators to meet United States Environmental Protection Agency (USEPA) regulations requiring them to demonstrate financial capability (set at \$1 million) to pay for potential damages caused by releases from their USTs. The fund assures UST owners reimbursement of up to \$1 million, minus a deductible, for necessary corrective actions. The fund reimburses responsible parties for costs of corrective actions and/or third-party liability for property damage or bodily injury caused by an accidental release of petroleum from regulated USTs. Currently, the FAF assures approximately 3,300 UST owners and 22,700 USTs. The average petroleum facility in Ohio has three USTs.

The Board's entire budget is for personnel costs, which are expended through the PUSTRCB Staff Fund (Fund 691). All expenditures related to reimbursement for corrective actions are paid directly from the FAF via a warrant of the State Treasurer.

### **The Financial Assurance Fund (FAF)**

The FAF consists of fees and charges paid by owners of USTs, interest earned on the moneys in the fund, and proceeds from any sale of revenue bonds authorized by the Board. Ohio's underground storage tank owners pay annual tank fees into the FAF. A \$50 per-tank fee increase took effect in July 2005. This increase is expected to generate an additional \$1 million in fee revenue annually. With this increase, coverage under the standard deductible of \$55,000 is provided to tank owners at an annual fee of \$550 per tank. Owners of six or fewer USTs may pay an additional fee of \$150 per tank (\$700 per tank total) and reduce their deductible to \$11,000 per release. The Board anticipates an estimated \$13.6 million will be collected in UST fees in each of FY 2006 and FY 2007. It expects \$10,000,000 and \$9,000,000 in claims expenses in FY 2006 and FY 2007, respectively. Aside from these expenses, the FAF may be used only to pay interest on revenue bonds and to pay the administrative costs of the Board.

The Board issued \$30 million in revenue bonds in FY 1994 and an additional \$35 million in FY 1999. No additional issues are anticipated for the FY 2006-2007 biennium.

### **Agency in Brief**

| <b>Agency In Brief</b>      |                                       |             |                           |             |                              |
|-----------------------------|---------------------------------------|-------------|---------------------------|-------------|------------------------------|
| <b>Number of Employees*</b> | <b>Total Appropriations-All Funds</b> |             | <b>GRF Appropriations</b> |             | <b>Appropriation Bill(s)</b> |
|                             | <b>2006</b>                           | <b>2007</b> | <b>2006</b>               | <b>2007</b> |                              |
| 24                          | \$1,075,158                           | \$1,116,658 | \$0                       | \$0         | Am. Sub. H.B. 66             |

\* Employee count obtained from the Petroleum Underground Storage Tank Release Compensation Board as of August 2005. This total includes 15 employees and 9 Board members. The 9 Board members are paid only for meetings attended (approximately 7 per year) and do not receive benefits.

### **FY 2006-2007 Outlook**

A number of events, including a FY 2000 administrative rule change that set a limit for submitting new claims (one year from the completion of a program task), an amnesty period for filing old claims and eligibility applications, and a large number of USTs being removed in the years following the 1998 federal upgrade deadline, resulted in a larger than expected number of claims being submitted. Due to the backlog created by this influx of claims reimbursement applications, the Board's response time between claims submission and reimbursement has increased and now spans approximately one year. Approximately 1,160 claims are currently pending review. During this biennium, the Board hopes to reduce this time frame and the backlog in claims. Reduction of the claims backlog depends on staffing and the amount of money available for reimbursements in the FAF.

In addition, in recent years the focus of the Reporting and Regulation program has changed from the assessment and collection of fee revenue to the review of compliance with UST regulations for the issuance of Certificates of Coverage. As responsibilities for this program expanded, sufficient staff has not been available to support the reconciliation of UST owners' accounts and the resulting assessment and collection of outstanding fees and, in some instances, the refunding of overpayments. As a result, the amount of delinquent fees as well as the liability for refundable fees has increased. The enacted budget will enable the Board to address this challenge this biennium by hiring an additional staff person to focus on the review, determination, and collection of accounts receivable and the refunding of erroneous fee payments.

### **Vetoed Provisions**

There are no vetoed provisions associated with the Petroleum Underground Storage Tank Release Compensation Board.

## ANALYSIS OF THE ENACTED BUDGET

For budget purposes, as detailed below, the Petroleum Underground Storage Tank Release Compensation Board is considered a single program series agency and its activities are not subdivided into separate programs.

### **Program Series 1      Petroleum Underground Storage Tank Release Compensation Board**

**Purpose:** To provide a mechanism for owners of Ohio's underground storage tanks (UST) to comply with the United States Environmental Protection Agency's regulations.

The following table shows the line item that is used to fund the Petroleum Underground Storage Tank Release Compensation Board, as well as the FYs 2006-2007 appropriations.

| Fund  | ALI     | Title         | FY 2006            | FY 2007            |
|---|---------|---------------|--------------------|--------------------|
| <b>Agency Fund Group</b>  |         |               |                    |                    |
| 691   | 810-632 | PUSTRCB Staff | \$1,075,158        | \$1,116,658        |
| <b>Agency Fund Group Subtotal</b>   |         |               | <b>\$1,075,158</b> | <b>\$1,116,658</b> |
| <b>Total Funding: Petroleum Underground Storage Tank Release Compensation Board</b> |         |               | <b>\$1,075,158</b> | <b>\$1,116,658</b> |

Funding for the Petroleum Underground Storage Tank Release Compensation Board supports the following two programs:

- **Eligibility and Reimbursement Recommendation and Determination**
- **Reporting and Regulation**

#### **Eligibility and Reimbursement Recommendation and Determination**

**Program Description:** A primary function of the Eligibility and Reimbursement Recommendation and Determination program is to determine who is eligible for reimbursement costs and how much money to grant in the event of an accidental release. For owners to seek reimbursement from the FAF, they must first submit an eligibility application to the Board. Staff members in this program are responsible for reviewing these applications to generally determine if FAF coverage may be extended for a release. If an owner is deemed eligible for reimbursement, that owner may then submit a claim reimbursement application, which staff members review to determine if particular costs associated with the release are reimbursable. The Board may reimburse tank owners for the costs of corrective action through two methods: an installment payment and a settlement payment. Before an installment payment is provided to the tank owner, the tank owner's claim is initially reviewed. At a later date, the claim is thoroughly reviewed and a final settlement is offered.

**Funding Source:** Fund 691 (a portion of UST fee revenue transferred from the FAF to Fund 691 for the Board's personnel costs)

**Implication of the Enacted Budget:** The enacted budget will allow the Board to cover cost-of-living pay increases and increasing health insurance costs while continuing to provide service at FY 2005 levels. To date the Board has received approximately 7,600 applications for reimbursement. About 6,300

of these have been settled or are below the deductible amount and, therefore, review is not required at this time. Applications for reimbursement continue to be received at an average of 65 per month. The enacted budget will permit staff within this program to continue to work towards reducing the backlog of applications waiting review, thereby decreasing response times while continuing to manage incoming reimbursement requests. However, the total reduction of this backlog is also dependent on funds available for reimbursement in the FAF, which is in turn dependent on fees paid by owners of USTs, interest earned on the moneys in the fund, and the number of reimbursements paid out each year.

### **Reporting and Regulation**

**Program Description:** Reporting and Regulation is responsible for the collection and application of all fees and penalties; maintenance of the general ledger and fee invoice systems; all accounting and fiscal transactions; preparation of all financial statements and related documents; coordination of an annual study of the FAF's estimated claim liability; and coordination of the annual audit.

This program ensures Ohio's UST owners are well informed and in compliance with federal financial responsibility requirements and the rules of the Board and the State Fire Marshal. Staff members in this program determine UST owners' rights to a Certificate of Financial Assurance Coverage. Valid Certificates of Coverage can be issued only to owners demonstrating compliance with regulations. Only holders of a valid Certificate of Coverage can be granted eligibility to receive reimbursement of corrective action costs in the event of a release at an assured site. This program annually issues Certificates of Coverage to more than 3,200 owners of about 23,000 petroleum USTs in Ohio.

**Funding Source:** Fund 691 (a portion of UST fee revenue transferred from the Financial Assurance Fund to Fund 691 for the Board's personnel costs)

**Implication of the Enacted Budget:** The enacted budget will allow the Board to cover cost-of-living pay increases and the increasing cost of health insurance while continuing the current level of service. In addition, the budget will allow the Board to hire one additional staff member who will be responsible for the review, determination, and collection of accounts receivable as well as processing refunds for erroneous fee payments. The Board predicts this additional staff position will help reduce the amount of delinquent fees and outstanding refunds.