

Petroleum Underground Storage Tank Release Compensation Board

OVERVIEW

The mission of the Petroleum Underground Storage Tank Release Compensation Board (the Board) is to provide a low cost mechanism for owners of Ohio's underground storage tanks (UST) to comply with U.S. EPA regulations to operate USTs. The Board requires that all UST owners participate in a risk pool-financing program, through the payment of annual tank fees into the Financial Assurance Fund (FAF), spreading the cost of any remediation efforts among all UST owners. The Financial Assurance Fund assures all petroleum underground storage tank owners reimbursement of up to \$1,000,000, minus a deductible, when corrective actions are necessary. Moneys in the fund consist of: (1) the fees and charges paid by owners of USTs; (2) interest earned on money in the fund; and (3) proceeds from revenue bonds authorized by the Board. Coverage under the standard deductible of \$55,000 is provided to tank owners at an annual fee of \$400 per tank in fiscal year (FY) 2001. The fee is expected to increase to \$450 in FY 2002, subject to JCARR approval. Owners of six or fewer USTs may pay an additional fee of \$150 per tank and reduce their deductible to \$11,000 per release. Fees are deposited in SSR 691.

One of the primary functions of the Board's staff is to determine who is eligible for reimbursement costs and how much money an owner may be granted, if he or she discovers a release of petroleum into the environment. For a UST owner to seek reimbursement from the FAF, he or she must first submit an eligibility application to the Board. If the owner is deemed eligible for reimbursement (through an eligibility determination), the UST owner can then submit a claim reimbursement application. The Board may reimburse the tank owner for the costs of a corrective action in two ways: (1) an installment payment given after a claim is initially reviewed; or (2) a settlement payment after the claim has been thoroughly reviewed and the final settlement is offered. Money from the FAF can be used only for the costs of remediation, not for any other action.

Currently, the FAF assures approximately 3,400 UST owners and 23,700 USTs. In FY94, the Board issued \$30 million in revenue bonds, and an additional \$35 million in FY 1999. No additional issues are anticipated for the FY 2002-2003 biennium. The Board anticipates an estimated \$8.9 million will be collected in fees during FY 2001, and approximately \$15 million will be reimbursed in claims. In the Board's 11 years of operation, it has collected approximately \$102 million in fees, issued \$65 million in revenue bonds, and reimbursed \$100 million in corrective action costs.

The Board's budget submission is solely for personnel costs, which are expended through Fund 691. The Board consists of nine members who are appointed by the Governor and three ex-officio members: the Treasurer of the State, the Director of Commerce and the Director of the Ohio EPA. The Board has a current staff of 12 employees who perform the daily operations of the Board. The Board intends to staff its vacant positions within the current and upcoming biennium, bringing its total to 16. All other expenditures, such as reimbursement for corrective actions, are paid directly from the FAF via a warrant of the State Treasurer. As of December 30, 2000, the FAF had an unobligated balance of approximately

\$28.4 million, and an obligated balance of about \$10.4 million. All expenditures, whether personnel or reimbursement, are financed by the fees paid by UST owners in Ohio.

The recommended funding for the Board is increased by \$83,513 in FY02 (9.0 percent over FY01) and by \$63,721 in FY03 (6.3 percent above FY02). The recommended funding is \$1,011,437 for FY02 and \$1,075,158 for FY03. This will provide for continuation of FY01 service levels.

ADDITIONAL FACTS AND FIGURES

Petroleum Underground Storage Tank Release Compensation Board Staffing Levels						
Program Series/Division	1998	1999	2000	2001	<i>Estimated</i>	
					2002	2003
Administration	3	3	3	3	3	3
Claims	8	8	8	7	8	8
Fiscal	5	5	5	5	5	5
Totals	16	16	16	15	16	16

Workload issues

At the time the Board was preparing its 1998-1999 biennial budget request, the Board expected the number of eligibility and claim applications to increase significantly as the December 1998 Federal upgrade deadline approached. Although the number of applications did increase somewhat over those years, they did not increase to projected levels for several reasons.

At the time, the Board believed that UST owners were required to remove, replace, or upgrade their underground tanks no later than December 1998. Because owners have one year from the date a release is required to be reported to the State Fire Marshal to file an application for eligibility, the Board anticipated it would see the full effects of the upgrade deadline by December 1999. However, the Board later learned that another option existed for these owners, which permitted them to legally remove their non-upgraded tanks from service for up to one year following the upgrade deadline. In reality, the Board did not bear the full effects of the upgrade deadline until December 2000, a full year after its initial projections. This, in concert with the Board's amending its filing deadline procedures in response to BUSTR's corrective action rule changes, led to increased workloads over the 2000-2001 biennium and a one-time dramatic increase in claims submissions in FY 2000 (discussed on page A 4). The Board now expects fewer eligibility applications beginning in FY 2002. In addition, because USTs that are currently assured by the Financial Assurance Fund (FAF) have been upgraded, the Board expects the cost of corrective action to decrease. Although the projection is that claims expense will continue to surpass FAF revenue over the 2002-2003 biennium, the gap between them is decreasing.

Staffing Issues

As a small agency with little room for promotional opportunities, the Board has experienced staffing difficulties and continues to experience a relatively high turnover in its professional staff. Consequently it is not unusual for the Board to have positions open for a significant amount of time in any given fiscal year. As a result, the actual spending is invariably lower than the estimated spending. However, estimated spending provides sufficient funding for all positions to be filled for the entire year and is not decreased by a factor for vacant positions.

The 9.0 percent increase in the Board's FY 2002 request for personnel services is consistent with the factor applied by the Office of Budget and Management to calculate core budget levels. At this writing, the Board's staff totals 12 full-time employees. However, the Board expects three of the four vacant positions to be filled during the current fiscal year, 2001. The last position will be filled either in FY 2001 or over the 2003-2003 biennium, bringing total staff size to 16.

ANALYSIS OF EXECUTIVE PROPOSAL

Petroleum Underground Storage Tank Release Compensation Board

Purpose The Petroleum Underground Storage Tank Release Compensation Board provides a low cost mechanism for owners of Ohio’s underground storage tanks (UST) to comply with USEPA regulations.

The following table shows the line item used to fund this program series, as well as the Governor’s recommended funding levels.

Fund	ALI	Title	FY 2002	FY 2003
SSR 691	810-632	PUSTRCB Staff	\$1,011,437	\$1,075,158
Total funding:	Petroleum Underground Storage Tank Release Compensation Board		\$1,011,437	\$1,075,158

Petroleum Underground Storage Tank Release Compensation Board

Program Description: The Petroleum Underground Storage Tank Release Compensation Board administers the Ohio Financial Assurance Fund under authority from Ohio Revised Code Sections 3737.90-3737.99. The Board 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 EPA serve as ex-officio members. The fund provides a mechanism for all UST owners and operators to meet the federal regulations requiring them to demonstrate their financial capability (set at \$1,000,000) to pay for potential damages caused by releases from their USTs. 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. The board has 12 full-time employees, but plans to staff its vacant positions within the current and upcoming biennium, bringing its total to 16.

Funding Source: The primary source of revenue for the Board is an annual fee assessed to each petroleum UST owned or operated by a responsible person. Under the standard \$50,000 deductible, the fee is \$400 per tank for FY01, and will increase to \$450 per tank in FY02, pending JCARR approval. Owners of six or fewer USTs may pay an additional fee of \$150 per tank and reduce their deductible to \$11,000 per release. Fees are deposited in SSR 691.

Although a fee increase is not anticipated for FY 2003, the Board annually reviews its fee structure and operating budget based on the Financial Assurance Fund’s unobligated balance, the claims paying experience of the Board, and the claims expenses projected to be certified for payment in the coming fiscal year. The Board also considers the number of tanks it expects to be assured. Based upon these claims projections and the expected tank population, the Board establishes the annual tank fee for the coming fiscal year.

The actual fees collected by the Financial Assurance Fund over the FY1990-1999 biennia, and the projected fees collected over the FY2000-2003 are as follows:

<u>Biennium</u>	<u>Fees Collected</u>
1990-1991	\$18,882,206
1992-1993	\$19,466,379
1994-1995	\$15,352,567
1996-1997	\$18,661,585
1998-1999	\$18,902,104
2000-2001	\$19,739,511
2002-2003	\$21,555,987

Line Items: 810-632

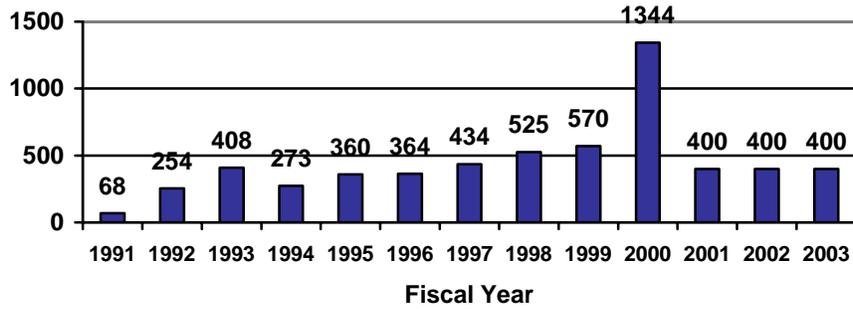
Federal Upgrade Deadline: U.S. EPA issued mandates to upgrade, remove, or replace USTs by December 1998, which resulted in a substantial decrease in the number of assurable USTs for which fees are collected. In the first year of the Board's existence, fees were collected for approximately 50,000 USTs. Today the number of assured USTs has decreased to approximately 23,700. In order to minimize effects on the solvency of the Financial Assurance Fund, the Board has increased per-tank fees incrementally over the years, and has succeeded in maintaining a relatively level amount of fee revenue.

As these underground storage tanks were removed, replaced, or upgraded, the number of claims reimbursements increased dramatically over the 1998-1999 and 2000-2001 biennia, resulting in increased costs to the Board. The Board expects fewer eligibility applications beginning in FY 2002, however; projections indicate that claims expense will continue to exceed fee revenue through the next biennium (see Chart 2).

Issues: The Board's primary objectives are to preserve the solvency of the Financial Assurance Fund while efficiently providing financial assistance to remediate contamination caused by releases from assured petroleum underground storage tanks. During the next biennium, the Board must maintain sufficient staffing levels to respond to claim reimbursement requests in a timely manner, and must sustain its level of effectiveness in managing the Financial Assurance Fund.

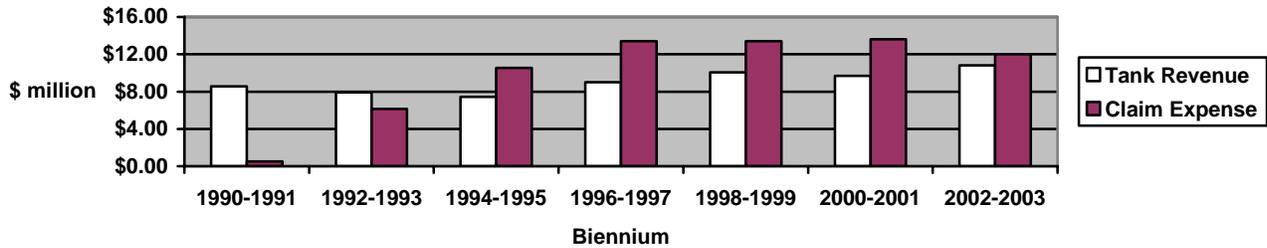
Since the Board began receiving claims in 1991, the number submitted has increased steadily over the years. In March of 1999, the Bureau of Underground Storage Tank Regulations (BUSTR) amended its corrective action rules (1301:7-9-13 of the Ohio Administrative Code) to allow for a more flexible, risk-based and site-specific process of determining corrective actions. Based upon BUSTR's changes, several amendments to the Board's rules were made. Several new program tasks were added to the mandatory cost pre-approval requirement, and claim filing deadlines were clarified. These deadlines resulted in a significant one-time increase in claim submissions in FY 2000. Chart 1, below, depicts the steady increase in claim submissions by fiscal year, as well as the Board's projections that beginning in FY 2002, the number of submissions will plateau at approximately 400.

Chart 1: Number of Claims Filed with PUSTRCB



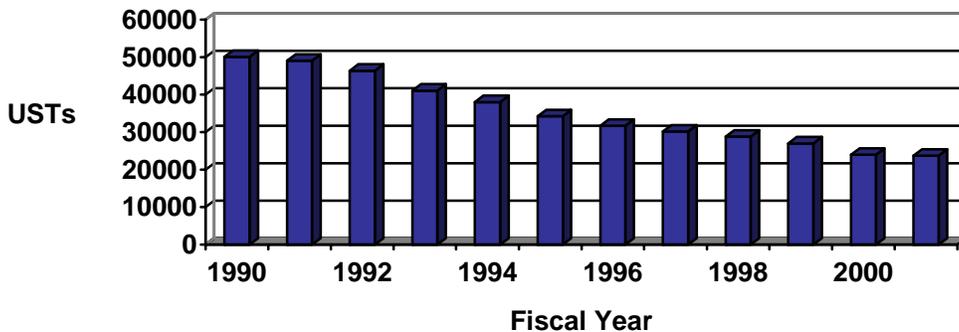
As the number of claims submitted to the Board each year have risen, the amount of total revenue deposited into the Financial Assurance Fund (from all sources) has not kept pace. Chart 2 depicts this trend.

Chart 2: Tank Revenue v. Claim Expense



In terms of tank owners, the recent trend has been to grow larger by acquiring more tanks, however; the number of tank owners themselves has been decreasing. And since U.S. EPA's mandates to upgrade, remove, or replace USTs by December 1998 have been implemented, the total number of assured tanks has also decreased. Chart 3 depicts the decreasing number

Chart 3: Number of Assured USTs



of tanks assured by the Board by fiscal year.

There are a total of 2,088 sites for which the Board has received requests for claim reimbursement since its establishment. Of these, 644 are closed sites, meaning no additional claims for reimbursement can be submitted. With respect to these closed sites, 1,307 claims were submitted, or an average of two claims per site. The average payout for each closed site was \$58,641.

Part of the federally mandated upgrades for all USTs included requirements that tanks and piping have corrosion protection and overflow and spill prevention mechanisms. In light of these requirements, the Board expects that future releases reported after the upgrades should be fewer and detected earlier, and that the need for extensive corrective action will be minimal (even within the deductible). Ultimately, the Board should only see catastrophic releases. Releases from non-compliant tank systems would not be eligible for reimbursement.

Implication of the Executive Recommendation: Funding will provide for continuation of FY 2001 service levels. Payroll expenses, which average \$1,040,000 annually, are the only funds of the Board that are appropriated.

PERMANENT AND TEMPORARY LAW SECTION

This section describes permanent and temporary law provisions contained in the executive budget that will affect the department's activities and spending decisions during the next biennium.

There are no permanent or temporary law provisions with fiscal effects on this agency.

REQUESTS NOT FUNDED

The executive budget proposal for the FY 2002-2003 biennium fully funds the Board's budget request. Funding will allow for the continuation of FY 2001 service levels, as well as maintenance of a full staff. The recommended funding level for FY 2002 is \$1,011,437 and \$1,075,158 for FY 2003.

LSC Budget Spreadsheet by Line Item, FY 2002 - FY 2003

<i>Fund</i>	<i>ALI</i>	<i>ALI Title</i>	<i>2000</i>	<i>Estimated 2001</i>	<i>Executive 2002</i>	<i>% Change 2001 to 2002</i>	<i>Executive 2003</i>	<i>% Change 2002 to 2003</i>
UST Petroleum Underground Storage Tank Release Compensation Board								
691	810-632	PUSTCB Staff	\$ 768,697	\$927,924	\$ 1,011,437	9.0%	\$ 1,075,158	6.3%
State Special Revenue Fund Group Total			\$ 768,697	\$ 927,924	\$ 1,011,437	9.0%	\$ 1,075,158	6.3%
Total All Budget Fund Groups			\$ 768,697	\$ 927,924	\$ 1,011,437	9.0%	\$ 1,075,158	6.3%

State Special Revenue Fund Group

691 810-632 PUSTCB Staff

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$696,360	\$697,786	\$768,697	\$927,924	\$1,011,437	\$1,075,158
	0.2%	10.2%	20.7%	9.0%	6.3%

Source: SSR: annual tank fees paid by underground storage tank owners (allocated to this account from the Petroleum Underground Storage Tank Financial Assurance Fund)

Legal Basis: ORC 3737.91 (originally established by Controlling Board on June 25, 1990)

Purpose: Moneys in this fund are used to pay the salaries and other expenses of the permanent staff of the Petroleum Underground Storage Tank Release Compensation Board.