

THE UST PIPELINE

News from the Petroleum UST Release Compensation Board

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TOP 4 REASONS FOR CERTIFICATE OF COVERAGE DENIALS AND HOW TO AVOID THEM

It's almost that time of the year again! The 2007 Program Year Fee Invoices will be mailed at the end of April and are due back to the Board by July 1, 2007.

This year's tank fees and deductibles will remain the same as last year - \$600 per tank for the standard \$55,000 deductible and \$800 for the \$11,000 reduced deductible.

Each year, the Board denies Certificates of Coverage (COC) to several tank owners based upon incomplete information or errors in paperwork. **Most of these can be easily prevented.**

The four most common reasons for denials are:

1) Failure to register with and/or remit registration

fees to the Bureau of Underground Storage Tank Regulations (BUSTR) – BUSTR also has an annual registration with a fee of \$50 per tank. This registration and fee are also due by July 1, 2007 and are conditions for acquiring a COC. BUSTR offers on-line payment and registration at

<http://www.com.state.oh.us/sfm/fmtr/OneStopTankShop.aspx>.

If you do not register online, an Annual Notification or Annual Renewal, whichever applies, will be mailed to you. Return it with payment to their processing agent, the Bureau of Testing and Registration, at the address provided on their forms.

2) Failure to submit a fully completed Annual Fee Assessment Invoice with payment

– Owners must certify the tank information maintained by BUSTR is accurate and choose a deductible mechanism to demonstrate financial responsibility. These requirements are satisfied by signing the Certification of Assurability and by completing the Statement of Financial Responsibility on the Annual Fee Assessment Invoice.

For those owners who choose the Financial Test of Self Insurance as their deductible mechanism, the

Financial Responsibility Affidavit must be completed by the owner and **notarized**. If you choose any other deductible mechanism, the affidavit does not need to be completed. However, you do need to indicate the mechanism you have selected by placing an "X" in the appropriate box.



These common mistakes/omissions must be corrected before a COC can be issued. Please take a few moments to review this information so that COC's may be processed without delay and, more importantly, to avoid a lapse in Fund coverage.

3) Failure to demonstrate compliance with BUSTR regulations

– Before issuing a COC, we review the tank and piping data you provided to BUSTR to determine

if the UST(s) is in compliance with BUSTR regulations. If it is determined that the regulations are not being met or an inconsistency is discovered, this must be

resolved prior to the issuance of a COC. You may review the data on file for your UST(s) with BUSTR at <http://www.com.state.oh.us/sfm/fmtr/OneStopTankShop.aspx>. If the information on file is inaccurate, please correct the information online or contact the Bureau of Testing and Registration at 614-752-7126.

4) Failure by an owner to obtain a COC for two or more consecutive years for their tanks

– The Board's rules require that you go through extra steps to qualify for a COC. These extra steps include the submission of all outstanding fees and penalties, leak detection records for each tank denied coverage and a certification that a release has not occurred or that any known release is in compliance with BUSTR's corrective action rule.

Please refer to BUSTR's Operational Compliance Field Guide for leak detection requirements at <http://www.com.state.oh.us/sfm/bust/documents/OperationalComplianceGuideWeb051706.pdf> or contact BUSTR at 614-752-7938 to obtain a hard copy for further information.

Tank Purchase and Certificate Transfer Information

There are several important considerations before purchasing an underground storage tank. This article is intended to assist persons in identifying issues before they purchase a tank and with acquiring certificates of coverage after they become an owner. Please remember, a tank owner must possess a valid certificate of coverage at the time that a release is discovered to be eligible for Fund reimbursement.

Before You Purchase a UST

Determine Whether Fees and/or Penalties are Owed For the Tanks

The Board's rules require that all outstanding fees and/or penalties owed for a tank be paid before a certificate of coverage can be issued for it. This means that, as the purchaser, you will be responsible for these payments, if they have not been made by the former owner. We strongly recommend contacting the Petroleum Board' staff at 614-752-8963 to determine whether any fees and penalties are outstanding for the tank(s) you intend to buy. Keep in mind that, in addition to any unpaid fees or penalties, the new owner must pay a \$500 transfer fee for each facility bought.

Determine Whether a Current Certificate of Coverage Exists for the Tanks

Even if no fees or penalties are owed for a tank, there still may be no current certificate of coverage in place for it. This is because payment of fees alone does not guarantee a certificate. If coverage does not exist, you will be subject to additional steps before a certificate may be issued. Again, we recommend contacting the Board's staff to learn whether a current certificate is in place.

Learn If a Release Has Occurred At the Site and If Corrective Action Is Ongoing

Prospective purchasers should also contact the Bureau of Underground Storage Tank Regulations (BUSTR) at 614-752-7938 to learn whether a release has been suspected or confirmed from the tank system that they intend to buy and whether corrective action is ongoing. For a BUSTR Fact Sheet pertaining to purchasing a facility with USTs go to: https://www.com.state.oh.us/sfm/bustr/PDFs/bust_buy_gas_station.pdf

It is also wise to ask the current owner for a copy of all recent (within the past year) leak detection records and review them with a tank consultant. Likewise, an environmental consultant can help identify releases that have occurred at sites but have not been reported. For advice on selecting a qualified environmental consultant go to: <https://www.com.state.oh.us/sfm/bustr/PDFs/CONSULTANT.pdf>

Please note, only the owner of a tank at the time the release is discovered has standing to seek reimbursement from the Fund. Therefore, if a release has occurred for which eligibility has been granted, the "old" owner (i.e. the owner at the time of the release) is the only person with standing to submit reimbursement claims to the Fund for that release and the new owner may not do so.

Other Considerations

Before purchasing a facility with tanks do your research. Be aware of all costs (fees, testing, upgrading, financial responsibility, and the potential clean-up costs, etc.). **It is often beneficial to consult with an attorney, who is knowledgeable in the area of underground storage tank laws, before finalizing a decision to buy.**

Note: A copy of this article is located on the Board's web site at www.petroboard.com/newsletter.htm

After You Purchase a UST – Establishing Coverage

Once you have purchased a tank(s), you should take the following steps, **within 30 days from the date of sale**, to acquire a valid certificate of coverage, in your name.

1) Notify the Board

Notify the Board (614-752-8963) of the purchase and provide the following information:

- The facility address where the transfer occurred
- The number of tanks located at the facility
- The date ownership transferred
- The name, address and phone number of the previous and new owner

2(a) Steps When a Current Certificate Exist

If a Certificate of Coverage exists for the tank(s) the new owner is required to:

- Pay \$500 (per facility) transfer fee if purchased on or after June 30, 2006;
- Pay any outstanding fees and/or late payment penalties associated with the tanks;
- Certify compliance with BUSTR rules (Certification of Assurability) and demonstrate the ability to pay expenses up to the deductible amount of coverage (Statement of Financial Responsibility) by completing the appropriate sections of the Annual Fee Invoice provided to you by the Board.
- Complete transfer registration with the Bureau of Testing and Registration (614-752-7126). To reach the BUSTR registration page go to: <https://www.com.state.oh.us/sfm/bustr/RegMenu.asp>

2(b) Steps When a Current Certificate Does Not Exist

If a Certificate of Coverage does not exist for the tank(s), the new owner is required to take the following steps *in addition to* those steps identified above (sections 1 and 2(a)):

- Certify that no release has been suspected or confirmed from the tank(s) or that any known release is in compliance with the corrective action requirements of O.A.C. 1301:7-9-13
- Submit current leak detection records to demonstrate that leak detection is being performed in compliance State Fire Marshal requirements. To learn more about leak detection, go to <https://www.com.state.oh.us/sfm/bust/documents/OperationalComplianceGuideWeb051706.pdf> and scroll to page 15.
- Submit recent monthly product inventory reconciliation records. To learn more about inventory control go to <https://www.com.state.oh.us/sfm/bust/documents/OperationalComplianceGuideWeb051706.pdf> and scroll to page 15.
- For tank(s) that have been out of service for more than one year, the new owner should contact the Board's staff about additional compliance steps.

Please note that, if a certificate of coverage exists for the tank(s) and the new owner follows all required steps within 30 days from the purchase date, there will be no lapse in coverage, from the old owner to the new. If a certificate does not exist, then coverage will not exist until all associated steps are satisfied.

Also note that, if after the tank purchase, the new owner owns a combined total 6 or fewer tanks, he may obtain coverage at the reduced deductible, by paying the full per tank fee. (The current deductible is \$55,000 at \$600 per tank. A reduced deductible of \$11,000 is available to owners of 6 or fewer tanks at \$800 per tank.)

Other Useful Links

A BUSTR guide to financial responsibility may be found at:

<https://www.com.state.oh.us/sfm/bustr/PDFs/FinancialResp/1.pdf>

The following link provides useful information related to BUSTR operational compliance requirements for

USTs. <https://www.com.state.oh.us/sfm/bust/documents/OperationalComplianceGuideWeb051706.pdf>

PETROLEUM BOARD HAS THREE NEW EX-OFFICIO MEMBERS

Governor Ted Strickland named two new cabinet officers who sit as ex-officio members on the Petroleum UST Board. Kimberly Zurz was named as the Director of Commerce and Chris Korleski was named as the Director of the Ohio Environmental Protection Agency. Newly elected State Treasurer Richard Cordray is also an ex-officio member of the Board.



Governor Ted Strickland appointed Kimberly A. Zurz Director of the Ohio Department of Commerce on January 22, 2007. Zurz is a veteran businesswoman, who was a State Senator representing citizens in northeast Ohio at the time of her appointment to the Strickland Cabinet.

The President of her family's 78-year-old business, The Eckard-

Baldwin Funeral Home, in Akron, Zurz has an informed perspective about the needs and concerns of small businesses and the importance of excellent customer service.

While serving more than three years in the Ohio Senate, Zurz earned a reputation as a staunch advocate for education and job creation. She represented Ohio's 28th District, which includes Portage County and a portion of Summit County.

Before her appointment to the Ohio Senate in 2003 and election in 2004, Zurz served almost 11 years on the Summit County Council, including three terms as President.



Governor Ted Strickland appointed Chris Korleski Director of the Ohio Environmental Protection Agency (Ohio EPA) on February 1, 2007. In this capacity, he is responsible for the protection of Ohio's air, land and water resources. Prior to his appointment as Director, Korleski served as counsel to Honda of America Mfg., Inc. in Marysville, Ohio since 1996.

Before working at Honda, Korleski was an assistant attorney general in the Ohio Attorney General's Office in

the Environmental Enforcement Section. From 1993-1995 he supervised the Ohio Attorney General's Clean Air Enforcement Program. From 1988-1993 he worked in the Environmental Enforcement Section providing representation and counseling to Ohio EPA in various matters involving air pollution, water pollution and solid and hazardous waste.

Korleski earned a bachelor's degree in agronomy from The Ohio State University College of Agriculture, and a master's degree in agronomy from the University of Nebraska. He received his law degree from The Ohio State University.



Elected on November 7, 2006, Richard Cordray is Ohio's 46th State Treasurer. Cordray has served the public as Franklin County Treasurer, State Solicitor, and State Representative.

In 2005 American City and County magazine named Cordray "County Leader of the Year" for his innovative work as Franklin County Treasurer.

As a State Representative, Cordray sponsored the Ohio Community Service Education Act. An active volunteer, he received the Ohio Legal Assistance Foundation's Presidential Award for his work supporting legal services for the poor, and the Human Rights Campaign recognized him as Humanitarian of the Year for his efforts to promote tolerance and understanding in our communities.

Cordray attended Michigan State University graduating Summa Cum Laude. He was awarded a Marshall Scholarship which took him to Oxford University in England. He earned the Brasenose College Prize in Economics and graduated from Oxford with an M.A. with Honours in Economics. Cordray graduated from the University of Chicago Law School. He was a U.S. Supreme Court law clerk for Justices Byron R. White and Anthony M. Kennedy. Cordray has also taught constitutional law for 13 years at The Ohio State University College of Law.