

Board Rescinds Annual Cost Estimate Rule and Expands Pre-Approval Requirements

The Board has rescinded Ohio Administrative Code (O.A.C.) §3737-1-14, which required all owners with open claims to file annual corrective action cost estimates with the Fund. While that rule no longer exists, the Board's pre-approval requirements, of OAC 3737-1-12.1 ("the pre-approval rule"), have been expanded.

The pre-approval rule has required that owners submit, to the Board's Director, applications for cost pre-approvals associated with remedial action plans (RAPs), tier 3 evaluation plans, certain monitoring plans (MPs), and certain interim response actions. New requirements of the pre-approval rule provide that, after initial pre-approval is granted, responsible persons must annually submit pre-approval applications to the Board's Director for the RAPs and MPs, unless allowed otherwise by the Director.

If an owner revises the costs or completion schedule after pre-approval has been granted or if, during implementation of corrective action, the costs or completion schedule will be exceeded, the owner must immediately notify the Board's Director and submit a revised cost estimate and completion schedule for pre-approval.

Owners may be required to provide data indicating progress at the site, an evaluation of other remedial alternatives, and respond to other questions about corrective action. Reimbursement of **any** claimed costs may be held pending the receipt of this information.

The Board's staff will evaluate the pre-approval applications considering what is typical for similar corrective action activities and under similar circumstances based upon the Board's experience. The Board's Director retains the right to consider other options for performing corrective action including, but not limited to, pay-for-performance or risk sharing by the owner and the consultant.

If a responsible person fails to submit costs for pending corrective actions to the Board when pre-approval is required, reimbursement will be limited to 80% of the usual, customary and reasonable costs of the least expensive remedial alternative as determined from the Fund's experience.

The claim's staff has begun identifying owners with cost pre-approvals that will be affected by the new rule. These owners will be contacted in the near future regarding their pre-approvals and the steps necessary to comply with the new rule.

For the most comprehensive understanding of these changes, owners and consultants are encouraged to read the amended pre-approval rule located on the Board's web site at www.petroboard.com/admincode.htm.

GOVERNOR RE-APPOINTS THREE BOARD MEMBERS

Governor Bob Taft recently re-appointed Tom Stephenson, President, Stephenson Oil Company; Duane Cable, Manager, Motorists Insurance Companies; and Cheryl Hilvert, City Manager, City of Montgomery to the Petroleum UST Board for terms ending in July 2006. The Board looks forward to their continued contributions in the management of the Financial Assurance Fund.