

Have You Been Reimbursed by the Fund?.....

And by Other Insurance or A Third Party

Recently, a number of petroleum UST owners have informed the Board that they will be recovering costs from supplemental insurance policies for corrective actions at their sites. These are not insurance policies that solely cover the amount of the deductible but, instead, potentially offer broader coverage of corrective action costs. In addition, other owners have taken actions to recover costs from third parties that allegedly caused releases at their site.

Under Ohio law, on sites where Fund reimbursement has occurred, the Board is entitled to all rights that the owner has to recover costs for corrective action and/or third-party bodily injury or property damages from any other source. What this means is that the owner cannot recover the same costs incurred from a release at their site from both the Fund and another entity. It also means that the Board has the right to pursue recovery of costs that are incurred by the Fund if there is another potentially liable entity. If there is another potential funding source, the Board must be notified.

For example, an owner pursued a contractor who installed a new UST system claiming the piping was not properly installed, which resulted in a release. Since reimbursement for the release was occurring from the Fund, the Board joined the owner as a plaintiff in the lawsuit. The outcome was a negotiated settlement.

If an owner has been reimbursed costs of corrective action and/or third-party bodily injury or property damage from the Fund and from another source, this information must be disclosed to the Board. If an owner is currently being reimbursed or planning to be reimbursed from the Fund has the potential to recover or is pursuing recovery from another source, the Board should be advised immediately.

Any recovery or potential recovery of costs from supplemental insurance, outside of insurance that covers the deductible, or from a third party must be disclosed when submitting an eligibility and claim applications. This information will be necessary before a claim settlement is issued.

REMINDER

As fee time approaches, the Board wants to remind owners of the following requirements:

- ü *Tanks must be removed before July 1 to avoid fees for the next program year. The Board cannot pro-rate fees based upon a removal date.*
- ü *If your tanks are removed before July 1, file your Application for Eligibility within one year of the date of removal. The release date is generally the same date as the removal.*