

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3737-1-07

Rule Type: Amendment

Rule Title/Tagline: Establishing fund eligibility for corrective action costs.

Agency Name: Petroleum Underground Storage Tank Release Compensation Board

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 8/9/2024
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 3737.90
5. **What statute(s) does the rule implement or amplify?** 3737.92
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

This rule is being filed in accordance with the five-year rule review requirement of section 106.03 of the Revised Code.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule provides the requirements for obtaining eligibility to file claims under the Fund. In addition, after a responsible person is determined to be eligible, the rule requires the responsible person to maintain eligibility by maintaining compliance with the UST regulations. If the responsible person fails to maintain compliance with the UST regulations, eligibility to file claims under the Fund may be revoked.

The proposed amendment establishes that an application for eligibility must be received within one year of the date of the release incident rather than one year from the date the release incident was required to be reported to the State Fire Marshal. A "release incident" is defined as a "release," "suspected release," or "confirmed release," whichever is first discovered.

9. **Does the rule incorporate material by reference?** No
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0

Not Applicable.

13. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Not Applicable.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No

15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable.

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes
18. Does this rule have an adverse impact on business? Yes
 - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
 - B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No
 - C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

Any responsible person wishing to seek reimbursement from the Fund must comply with the rule. The rule requires information to be provided to the Board in order to comply with the rule. The Application for Financial Assurance Fund Eligibility required by the rule is a six-page application that can be completed by the responsible person or at the responsible person's option, an environmental consultant. In addition, a report describing the petroleum release (closure report, site assessment report, immediate corrective actions report, etc.) must be submitted with the application. Because these reports are required by the fire marshal's closure assessment or corrective action rules, the only additional expenditures to the applicant are duplication and mailing costs.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? Yes

The rule could arguably reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

A responsible person seeking to establish Fund eligibility may incur nominal administrative expenses to complete and submit the Application for Financial Assurance Fund Eligibility. In addition, the rule sets forth prerequisites for a responsible person to be determined eligible for reimbursement from the Fund. If the conditions set forth in the rule are not met, eligibility cannot be granted, and therefore any cleanup costs associated with the petroleum release cannot be reimbursed from the Fund.

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No

A. How many new regulatory restrictions do you propose adding to this rule?

Not Applicable

B. How many existing regulatory restrictions do you propose removing from this rule?

Not Applicable

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

Not Applicable

D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable