

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3737-1-12.1

Rule Type: Amendment

Rule Title/Tagline: Mandatory and voluntary pre-approval of 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.**

The rule sets forth the requirements for requesting pre-approval of costs for specified pending corrective action activities. Any costs submitted for reimbursement that were not pre-approved as required are subject to a 50% reduction in the reimbursable amount.

The proposed rule change clarifies that cost pre-approval is required annually for each year that ongoing free product recovery is required by the State Fire Marshal and that failure to perform the required free product recovery does not negate the cost pre-approval requirement.

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**

A request for the pre-approval of costs as required by rule 3737-1-12.1 is made by submitting a one page Cost Pre-Approval Application, itemized listing of the estimated costs, and if appropriate, a copy of the proposed plan required by the fire marshal for the corrective action activities. The preparation and submission of a request for the pre-approval of costs is routinely completed by the responsible person's environmental consultant. These costs are reimbursable when claimed under the Fund and range from \$500 to \$3,000.

- 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.

The rule requires a responsible person to submit a detailed estimated cost and completion schedule for pre-approval of corrective action costs for certain program tasks. Costs incurred to comply with rule 3737-1-12.1, are

reimbursable when claimed under the Fund. However, failure to seek cost pre-approval when required will limit reimbursement to 50% of the usual, customary, and reasonable costs of the least expensive alternative for similar corrective action activities as determined from the Fund's experience.

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