

Rule Summary and Fiscal Analysis (Part A)**Petroleum Underground Storage Tank Release Compensation Board**

Agency Name

Division

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3737-1-04.2

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Baseline environmental site assessment.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **3737.90**

5. Statute(s) the rule, as filed, amplifies or implements: **3737.91**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Pursuant to the proposed new rule 3737-1-04, the Board proposes to adopt this new rule to set the minimum requirements for a baseline environmental site assessment to establish the concentrations of chemicals of concern existing in the soil and groundwater at an underground storage tank site at the time ownership of the underground storage tanks transfer. The new responsible person may choose to perform this site assessment as an alternative to remitting any fees that are outstanding for the underground storage tank(s) at the time of the transfer. The rule

was written to be consistent with the closure assessment activities set forth by the fire marshal in paragraph (I) of rule 1301:7-9-12.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rule describes how the baseline environmental site assessment shall be completed, and the information and supporting documentation that must be included in the baseline environmental site assessment summary report. It provides that the results of a Phase II Environmental Site Assessment that was completed within six months of the date of the transfer of an underground storage tank system may be used to complete the environmental site assessment summary report.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

The ASTM International Phase II E1903-11 ("Standard Practice for Environmental Site Assessments: Phase II Environmental Site Assessment Process") standard referenced in the rule is the generally accepted practice for conducting an environmental site assessment of a parcel of property with respect to the presence of hazardous substances, pollutants, contaminants, petroleum products and controlled substances. The standard is generally available, and can be obtained from ASTM International on its website at www.astm.org.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not Applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0

Not Applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not Applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Providing a baseline environmental site assessment (ESA) is optional. However, if the underground storage tank owner chooses to submit a baseline ESA, the cost to conduct the assessment and prepare the required summary report is estimated to be between \$5,000 and \$10,000. This cost estimate is based on the Fund's experience in reimbursing costs for similar work. If a Phase II ESA was or is performed within

six months of the date of transfer of an underground storage tank system (as often required by a lending institution in real estate financing transactions), the results of the Phase II ESA may be used to complete the required baseline ESA summary report. The cost to complete and submit this report by using the results of the Phase II ESA is estimated to be less than \$500.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

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? **No**