

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3737-1-09

Rule Type: Amendment

Rule Title/Tagline: Limitations of fund coverage.

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?** 11/29/2019
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. **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.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule provides a listing of costs that are specifically excluded from Fund reimbursement. The Board proposes to insert text to paragraph (A)(2) to clarify that corrective action costs cannot be reimbursed for a release for which eligibility was not sought. The proposed changes to paragraphs (A)(4), (A)(11), (A)(15), and (A)(16)

are editorial and intended to make the language of the rule more clear. The Board is proposing to amend paragraph (A)(17) so responsible persons are aware that a markup on charges for utilities or costs for the transportation of soil and backfill materials is not reimbursable. The proposed new paragraph (A)(18) explains that if a responsible person receives payment for corrective actions from a party that caused or contributed to the release, the responsible person cannot also receive payment from the Fund for those costs.

8. **Does the rule incorporate material by reference? No**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

10. **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

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

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Not Applicable.

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

Not Applicable.

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

14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

III. Common Sense Initiative (CSI) Questions

15. Was this rule filed with the Common Sense Initiative Office? Yes

16. 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? No**

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

By statute, the Fund exists to reimburse owners or operators of USTs for corrective action costs and to compensate third parties for bodily injury and property damage associated with accidental releases of petroleum from assured USTs. Therefore, claimed costs that do not meet this requirement cannot be reimbursed and are disallowed. Currently, about 15% of the costs claimed for reimbursement are disallowed. Commonly submitted costs that are not reimbursable from the Fund include corrective action costs that are higher than what are typical; costs not necessary for or required by the fire marshal's corrective action rules; costs associated with UST system testing, repairs, upgrades and removals; and costs not timely submitted for reimbursement.