

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

Agency Name

Division

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3737-1-22

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Subrogation.**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: **3737.92**

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

This rule is being filed in accordance with the five-year rule review requirement of section 119.032 of the Revised Code.

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 Board has the right to subrogate against any party, including the party's insurer, who contributes to or causes an accidental release of petroleum from an underground storage tank. The rule sets forth the requirements for notification to the Board when another party causes or contributes to the release. The Board proposes to change the existing rule by moving the definition of "subrogation" in paragraph (D) to rule 3737-1-03, which is the definition rule. Further, the non-reimbursable costs set forth in paragraph (E) are proposed to be re-located to rule 3737-1-09, which includes other limitations of Fund coverage. No other significant changes were proposed. However, the text of the existing rule was further reorganized with the intent of making the rule easier to read and understand. For instance, the Board proposes moving the thirty-day notice requirement to paragraph (A)(1) so affected persons might more quickly identify the deadline for reporting the action to the Board. Therefore, the Board proposes to rescind the existing rule and replace it with a new rule in accordance with the guidelines established by the Legislative Service Commission.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

Not Applicable.

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? **Yes**

The rule requires the report of information as a condition of compliance. Responsible persons are required to notify the Board of any other parties against whom they have or may have a right of recovery, and also to provide notification to the party allegedly causing or contributing to the release that the Board is entitled by subrogation to recover corrective action costs or the cost of compensation paid to third parties for bodily injury or property damage. The rule restricts the responsible person from entering into any settlement without prior notice and authorization by the Board. Lastly, this rule requires the responsible person to notify the Board if the responsible person initiates contact with the other party regarding the conduct or actions that resulted in the release of petroleum.