

**Note:** Upload completed document to the Electronic Rule Filing System.

Hearing Date: 2/8/2023

Today's Date: 2/9/2023

Agency: Petroleum Underground Storage Tank Release Compensation Board

Rule Number(s): 3737-1-04

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If no comments at the hearing, please check the box. ☐

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List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Ryan Elliott with the law office of Vorys, Sater, Seymour and Peas LLP submitted a letter on behalf of the Ohio Energy and Convenience Association supporting the proposed amendment to O.A.C. 3737-1-04.

## Hearing Summary Report

### **Consolidated Summary of Comments Received**

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

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In its comment, the Ohio Energy and Convenience Association conveyed its support for the proposed amendment to rule 3737-1-04.

## Hearing Summary Report

### **Incorporated Comments into Rule(s)**

Indicate how comments received during the hearing process were incorporated into the rule(s).  
If no comments were incorporated, explain why not.

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The Association conveyed its support for the proposed amendment to rule 3737-1-04 as filed, and no suggested changes for incorporation into the rule were provided.



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January 17, 2023

**VIA E-MAIL**

Starr Richmond, Executive Director  
Petroleum UST Board  
4151 Executive Parkway, Suite 350  
Westerville, OH 43081  
[rules@petroboard.org](mailto:rules@petroboard.org)

Re: **Comments of the Ohio Energy and Convenience Association on the  
proposed amendments to OAC 3737-1-04**

Dear Ms. Richmond:

On January 6, 2023, the Petroleum UST Release Compensation Board (the “Board”) published notice of a public hearing to consider proposed amendments to OAC 3737-1-04, which establishes the requirements of petroleum underground storage tank (UST) owners and operators to obtain, maintain a certificate of coverage with the Financial Assurance Fund, including the payment of annual per-tank financial assurance fees (the “Proposed Amendments”). The Proposed Amendments currently under consideration are a revised version of proposed amendments to OAC 3737-1-04 that the Board filed with the Joint Committee on Agency Review (JCARR) on March 30, 2022, but subsequently withdrew after considering comments received on the prior iteration, including comments submitted by the Ohio Energy and Convenience Association<sup>1</sup> (OECA, or the “Association”) which raised concerns regarding the point at which requirements associated with obtaining a certificate of coverage a triggered and the scope of the Board’s authority to collect annual UST fees under R.C. 3737.91. The following comments on the Proposed Amendments are being submitted on behalf of OECA.

**INTRODUCTION**

Ohio’s energy and convenience industry works around the clock to keep companies energized and open for business, and the Association is the premier statewide trade association representing

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<sup>1</sup> OECA submitted comments on the Board’s March 30, 2022 proposed amendments to OAC 3737-1-04 on April 13, 2022. OECA also engaged in further discussions with the Board regarding the proposed amendments during the Board’s Rules Committee meetings on June 8, 2022 and September 14, 2022.

Starr Richmond, Executive Director  
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their interests. OECA's members own and operate the majority of Ohio's 5,635 convenience stores and employ more than 91,287 Ohioans. Members on the wholesale side employ thousands more in commercial fueling facilities, transportation divisions, heating oil sales and home offices. Collectively, the Association's members supply the fuel to move commerce and motorists through the state, drive the economy through job creation, and strengthen local communities through philanthropic engagement. The Association frequently participates in policy initiatives and regulatory actions at the local, state, and federal levels of government in support of its members' interests.

Many of the Association's members who own and/or operate USTs are subject to OAC 3737-1-04.

## **COMMENTS**

OECA applauds the Board's engagement with interested stakeholders throughout this rulemaking effort, and appreciates the Board's consideration of OECA's comments. The Proposed Amendments include language that addresses the concerns raised by OECA in its April 13, 2022 comments. Notably, OAC 3734-1-04(F)(1) has been amended to clarify that a responsible person must notify the director upon introducing a regulated petroleum product into a newly installed UST (as opposed to providing notice upon the installation of the UST). The Proposed Amendments also clarify that the responsible person is only assessed annual fees for the fiscal year in which a regulated petroleum product was first introduced into the UST system or July 1, 1989, whichever is later, and any subsequent fiscal years.

The Association supports the Proposed Amendments, and appreciates the opportunity to submit comments as part of the Board's rulemaking effort. Thank you for your consideration in this matter.

Sincerely,



Ryan D. Elliott

RDE/rde