

**MEMORANDUM**

**TO:** Jonathan Maneval, Petroleum Underground Storage Tank Release Compensation Board

**FROM:** Christopher Smyke, Regulatory Policy Advocate

**DATE:** January 10, 2018

**RE:** **CSI Review – Annual Financial Assurance Fund Fee Change (OAC 3737-1-04)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) 107.54, CSI has reviewed the abovementioned administrative rule and associated Business Impact Analysis (BIA). This memo represents CSI's comments to the Agency as provided for in ORC 107.54.

**Analysis**

On December 11, 2017, the Petroleum Underground Storage Tank Release Compensation Board (Board) submitted a draft rule package consisting of one amended rule to the CSI Office for review. The CSI public comment period closed on December 22, 2017 with no comments submitted.

The rule under consideration outlines several annual requirements for owners and operators of petroleum underground storage tanks (USTs) in order to establish coverage with the financial assistance fund. The rule establishes the requirements surrounding the administration and determination of annual fees, certification of compliance with the State Fire Marshal's rules, and guidance regarding financial responsibility of a UST. The only proposed change to the rule would reduce the annual fee from \$400 to \$350.

Prior to filing with CSI, the Board sought public input by inviting over 150 relevant stakeholders to a Finance Committee meeting on November 29, 2017 to discuss the per-tank fee and deductible amounts for the program year of 2018. The BIA notes that stakeholders were supportive of the rule amendment to decrease fees. No comments were received during the CSI public comment period.

The impacted business community includes any owner or operator of a UST in Ohio. The adverse monetary impact includes the annual fee, which is being proposed to decrease from \$400 to \$350. The BIA goes on to quantify that the rule change will save UST operators \$1 million annually. The rule also stipulates that the Board-issued certificate of coverage may be denied for a UST operator's failure to pay the applicable fees, demonstrate financial responsibility, or maintain certification and compliance with State Fire Marshal rules. The rule includes notification requirements for a UST that is new or transfers ownership, which would entail administrative time.

The BIA justifies the rule with the need to maintain the financial solvency of the financial assurance fund. The fund is necessary to assist UST operators when taking corrective action for accidental release of petroleum from UST systems. The BIA also points out the proposed rule change is the result of the recommendation of the Board's Finance Committee, based on an analysis of the fund's current budget balance, as well as the fund's projected revenue and expenses for the next year.

Following review of the draft rule and BIA, it has been determined that the standards espoused by the CSI Office have been met, and the adverse impacts of the draft rule are justified.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Petroleum Underground Storage Tank Release Compensation Board should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

CC: Emily Kaylor, Lt. Governor's Office