



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Sean McCullough**, Director

### MEMORANDUM

**TO:** Starr Richmond, Petroleum Underground Storage Tank Release Compensation Board

**FROM:** Jacob Ritzenthaler, Business Advocate

**DATE:** January 6, 2023

**RE:** **CSI Review – Annual Petroleum Underground Storage Tank Financial Assurance Fee, Certification of Compliance, and Financial Responsibility (OAC 3737-1-04)**

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

#### Analysis

This rule package consists of one amended rule proposed by the Ohio Petroleum Underground Storage Tank Release Compensation Board (Board). This rule package was submitted to the CSI Office on March 30, 2022, and the public comment period was held open through April 13, 2022. After the CSI public comment period, the Board made the rule package available for another round of stakeholder comments. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on March 30, 2022.

Ohio Administrative Code (OAC) 3737-1-04 establishes requirements for the annual petroleum underground storage tank financial assurance fee, certification of compliance, and financial responsibility. The rule sets forth the assessment of the financial assurance fee, issuance of the certification of coverage, and criteria for non-issuance or revocation of a certificate. The rule is amended to list the applicable fees for a newly installed tank, which can include the annual fee for the fiscal year in which petroleum was first introduced to the tank and to require that payment of fees and demonstration of financial responsibility be completed at the time of installation. The rule also is amended to address transfer of ownership of a tank and to state that the certificate of coverage

**77 South High Street | 30th Floor | Columbus, Ohio 43215-6117**  
**CSIOhio@governor.ohio.gov**

is effective at the time of transfer if the new responsible person pays the transfer fee, demonstrates financial responsibility, and certifies compliance within thirty days of the assessment of any potential fees.

During early stakeholder outreach, the Board reviewed the proposed rule during meetings of the Board's Rules Committee, which were attended by industry stakeholders. During that time, stakeholders provided feedback that prompted amendments to the process of transferring a certificate of coverage and the introduction of petroleum products to an underground storage tank. The Board received one comment during the CSI public comment period, which prompted additional discussion with industry stakeholders during a meeting of the Rules Committee. In response to stakeholder feedback, the Board amended the rule to require a responsible person to notify the Board immediately upon introducing petroleum into a newly installed system, as opposed to when the system is placed in service. The Board also updated language to specify payment in full and timelines for payment of fees where appropriate, as well as require compliance with coverage reinstatement guidelines.

The business community impacted by the rule includes owners and operators of underground storage tanks. The adverse impact created by the rule includes the annual fee for tanks and information reporting. Annual fees cost \$350, and businesses may be assessed an additional fee of up to \$1,000 per tank if the annual fee is submitted late. The Board states that the adverse impact to business is necessary to comply with statutory requirements and to maintain the Financial Assurance Fund, which covers expenses related to environmental remediation and bodily injury caused by underground storage tanks.

### **Recommendations**

Based on the information above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

The CSI Office concludes that the Board should proceed in filing the proposed rule with the Joint Committee on Agency Rule Review