

PETROLEUM UST RELEASE COMPENSATION BOARD

HARDSHIP STATUS APPLICATION FOR CORPORATION/LLC/LLP

Overview

Recognizing that clean-up costs for petroleum contamination may place a financial burden on some UST owners, the Petroleum Underground Storage Tank Release Compensation Board's (Board) rules include a provision entitled "Hardship Status" (Ohio Administrative Code 3737-1-08, copy enclosed). This provision assists owners who experience financial hardship in paying clean-up costs because of business cash flow.

Hardship Status extends the benefit of an expedited review and, therefore, expedited payment of a claim, provided that clean-up costs are timely submitted for reimbursement and are properly documented, necessary, and reasonable. Even with Hardship Status, if the costs submitted in a claim are not properly documented, the amount of reimbursement may be reduced or denied. In addition, owners granted Hardship Status must still pay for the deductible amount of coverage before any payment from the Fund can be made.

In order to apply for Hardship Status, the attached "Hardship Status Application" must be completed and submitted with the UST owner's financial data demonstrating Hardship Status is necessary to prevent imminent financial hardship. The Board's Executive Director will review the application and recommend its approval or denial to the Board. The Board may agree or disagree with the Executive Director's recommendation. If the Board approves the application for Hardship Status, claims will be reviewed and the results of those reviews will be issued no more than 90 days from receipt of a Claim Reimbursement Application. Once approved, Hardship Status is in effect for a two-year period. Thereafter, the UST owner may apply for extensions of Hardship Status by completing and submitting a new application with updated financial information.

Because the Board is a public agency, once the application and financial information are received, it becomes a public document and is subject to any request for review from the public. It is not the Board's intent to publicize this information, however, in maintaining files that must be open to the public, the possibility exists someone else will review the application and supporting documents. For Hardship Status to be granted, the required financial data cannot be withheld. The Board believes its request for the documents is reasonable and only documents that demonstrate the true financial condition are being requested.

If you operate a business that is not a corporation or limited liability company or partnership and you wish to apply for Hardship Status, please submit a Hardship Status Application for Individual/Sole Proprietor. If you require any information to assist you with completing this application or have any questions regarding the application requirements, please contact the Board's office at (800) 224-4659 or (614) 752-8963.

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HARDSHIP STATUS APPLICATION FOR CORPORATION/LLC/LLP

This application must be completed by an officer or member of the corporation (Corp), limited liability company (LLC), or limited liability partnership (LLP) seeking Hardship Status with the Board. The information requested must be representative of the Corp, LLC, or LLP, not individual stockholders or members.

1. Owner # (Certificate of Coverage #) assigned by the Board: _____

2. Business/Entity Name (Tank Owner): _____

Street Address: _____

City: _____ State: _____ Zip: _____

3. Individual completing application: _____

Relationship to business/entity: _____

Phone: (____) _____ Email: _____

4. Provide the facility name and address of the site where the clean up must be conducted (release site):

Release Site Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

5. If different from above, provide the name and address of the owner of the release site:

Property Owner Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

6. Have the tanks been removed? ☐ Yes ☐ No If yes, when: _____

7. Is the facility operating? ☐ Yes ☐ No If no, when was the facility closed?

8. Provide the claim number, if assigned: _____

9. Bureau of UST Regulations (BUSTR) Release #: _____

10. If an Application for Financial Assurance Fund Eligibility has not previously been filed, is the Application for Eligibility being submitted with this Hardship Status Application?

☐ Yes ☐ No If no, please explain:

11. What is or will be the deductible amount for your claim? \$ _____

12. What is the clean-up status at the release site (check all that apply)?

_____ Immediate Corrective Action
_____ Free Product Removal
_____ Tier 1 Source Investigation
_____ Tier 1 Delineation
_____ Tier 2 Evaluation
_____ Tier 3 Evaluation
_____ Interim Response Action
_____ Remedial Action Plan (RAP) Preparation
_____ RAP Implementation
_____ Monitoring Plan

13. Please briefly describe the corrective action work anticipated to be conducted at the release site within the next 24 months and indicate if any of the anticipated work requires authorization by BUSTR:

14. What is the total estimated cost for the corrective action work described above:

\$ _____

15. How will the cost of corrective action work be paid: _____
- _____
16. Are other Corps, LLCs, or LLPs associated with the ownership or operation of the release site? ☐ Yes ☐ No If yes, please list the names of the entities and the relationship to the Corp, LLC, or LLP responsible for the cleanup of the release:
- _____
- _____
- _____
17. Please attach entire federal income tax returns, including but not limited to, IRS Forms 1040, 1120, 1120A, 1120S, or 1065 for the previous three years. Please redact all social security numbers, if any.
18. Attach balance sheets, income statements, audits, or compilations detailing the finances of the business operations over the past three years.
19. Attach any other records you believe demonstrate financial hardship.
20. Please read, sign, and date the following certification:

CERTIFICATION

As the person applying to the Petroleum UST Release Compensation Board for Hardship Status pursuant to O.A.C. 3737-1-08, I certify that all answers and data submitted as part of this application are true and accurate representations of the financial condition of the Corp, LLC, or LLP. Further, no requested information or documents have been withheld.

I understand that this application and any of the information required to be filed with it is a public record and, upon request, is available to any person for review.

Signature of authorized representative

Date

Print or type name of person signing above

CHECKLIST FOR SUBMITTING THE HARDSHIP STATUS APPLICATION:

- _____ Fully complete and sign the application;
- _____ Attach the requested financial data and include any other data which you believe will assist this office in the review of your application; and,
- _____ Include an Application for Financial Assurance Fund Eligibility for the release, if you have not previously submitted the application. The application is available on the Board's website:
www.petroboard.org/Pdfs/EligibilityApplication.pdf.

Mail the completed and signed application and accompanying records to:

**Petroleum UST Release Compensation Board
P.O. Box 2280
Westerville, OH 43086**

3737-1-08 Disbursement of the financial assurance fund.

- (A) Once eligibility of the fund has been determined in accordance with rule 3737-1-07 or 3737-1-19 of the Administrative Code and the director of the fund has determined that an application for reimbursement is complete, obligations of the fund will not occur unless and until the deductible or the reduced deductible, as applicable, set forth in rule 3737-1-06 of the Administrative Code has been met. Costs determined to be non-reimbursable pursuant to paragraph (A) of rule 3737-1-09 of the Administrative Code shall not be applied toward the responsible person's deductible or reduced deductible. Reimbursable costs covered by insurance policies or recoverable from any other party shall be applied toward the responsible person's deductible or reduced deductible.
- (B) Obligations of the fund for eligible claims will be made on a first-come, first-served basis as determined by receipt of a completed application in accordance with rule 3737-1-12 of the Administrative Code, except when:
 - (1) The fire marshal requests approval of an accelerated review on the basis of the threat posed to human health or the environment by the release to which the claim applies;
 - (2) An accelerated review is granted under paragraph (D) of this rule; or
 - (3) The director determines that efficiency and cost savings will be better served by a non first-come, first-served review.

Notwithstanding any of the above provisions, the director may prioritize claims for releases that have received no further action status.

- (C) The board may by resolution provide for the payment of claims by installments in a manner and for a period of time it deems appropriate when the board concludes that such action is necessary to maintain the financial soundness of the financial assurance fund.
- (D) A responsible person may file with the board a request for an accelerated review of a claim by submitting an application for hardship status on a form prescribed by the director, and by providing financial documentation to the director that demonstrates approval of hardship status is necessary to prevent an imminent financial hardship to the responsible person.
 - (1) As a result of such request, the director may:
 - (a) Seek additional information from the responsible person to demonstrate imminent financial hardship, including but not limited to, a statement of assets and liabilities and/or a detailed listing of living expenses and income;
 - (b) Request the responsible person sign a release to allow the director to obtain or inspect federal and state tax records; and
 - (c) Request copies of any contracts existing between the responsible person and his/her contractors and subcontractors remediating the site.

- (2) A responsible person who refuses to provide the requested information shall be denied hardship status. Any documentation received by the board for a hardship application is a public record unless it is specifically exempt under section 149.43 of the Revised Code.
- (3) Upon review of financial data and/or other information provided by the responsible person, the director shall recommend to the board approval or denial of the request.

The board may accept or reject the director's recommendation. Should the board's action result in the approval of hardship status, the approval shall be for two years from the date of the board's action. A responsible person may file a subsequent request for hardship status on or before the expiration of a two-year period of hardship status.

- (4) The board may suspend or discontinue the hardship program when it determines that doing so is in the interest of the fund. Any hardship statuses that are currently in effect at the time the board suspends or discontinues the hardship program shall remain effective until the expiration of the two-year period from the date the application was approved.

Effective: 07/01/2020

Five Year Review Dates: 07/31/2019 and 07/31/2024

Promulgated Under: 119.03
Statutory Authority: 3737.90
Rule Amplifies: 3737.92
Prior Effective Dates: 08/01/1990,
05/04/1992, 07/01/1996, 09/18/1999,
04/01/2005, 04/01/2006, 04/01/2008,
11/30/2009, 01/01/2015, 01/01/2019