

TO BE RESCINDED

1301:7-9-14 **Voluntary corrective action.**

(A) Purpose and scope.

For the purpose of prescribing rules pursuant to section 3737.88 of the Revised Code, the state fire marshal hereby adopts this rule to establish standards for voluntary corrective action . This rule is adopted by the state fire marshal in accordance with Chapter 119. of the Revised Code and shall not be considered a part of the Ohio Fire Code.

(B) Definitions.

- (1) "Voluntary corrective action" means any and all corrective action undertaken by a person who is not an owner or operator, as those terms are defined in section 3737.87 of the Revised Code, or otherwise potentially liable for the costs of corrective action pursuant to section 3737.89 of the Revised Code in response to a release or suspected release from a petroleum UST system for the purpose of meeting applicable standards established by rules adopted pursuant to division (B) of section 3737.882 of the Revised Code.

(C) Voluntary corrective action.

- (1) Any person having a legal, equitable or possessory interest in a parcel of property may undertake voluntary corrective action in response to a release or suspected release from a UST system containing petroleum.
- (2) Upon demonstration that the applicable standards established by rules adopted pursuant to division (B) of section 3737.882 of the Revised Code have been met, the state fire marshal shall issue the person that undertook voluntary corrective action written notice that no further corrective action is required.
- (3) Written notice issued pursuant to paragraph (C)(2) of this rule that no further corrective action is required shall not be construed in any manner to suggest that the person completing voluntary corrective action has thereby assumed any liability or responsibility for the release or suspected release of petroleum, or for any residual contamination that may remain at the property.

(D) Effect on other laws.

- (1) Nothing in this rule affects any liability or response authority under any federal or state law, including, but not limited to:

- (a) The Comprehensive Environmental Response Compensation, and Liability Act (42 U.S.C. 9601 et seq.);
- (b) The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);
- (c) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);
- (d) The Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and
- (e) The Safe Drinking Water Act (42 U.S.C. 300f et seq.).

The federal laws listed in this paragraph are those versions of the laws amended through January 7, 2011.

- (2) Any determination by the state fire marshal for the purpose of assisting voluntary corrective action at a petroleum brownfields site does not release any responsible person from any obligations under sections 3737.87 to 3737.89 of the Revised Code and the regulations adopted thereunder, or effect any other rights under the citizen suits provision of the Resource Conservation and Recovery Act of 1976, 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. The state fire marshal reserves all enforcement and remedy rights available under the law.

Effective:

Five Year Review (FYR) Dates: 05/17/2017

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3737.882
Rule Amplifies: 3737.882
Prior Effective Dates: 9/1/92; 1/1/94; 3/31/99, 3/1/05, 7/1/12