

**Rule Summary and Fiscal Analysis (Part A)****Department of Commerce**

Agency Name

**Division of State Fire Marshal**

Division

**Tracie Boyd**

Contact

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**1301:7-7-01**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Administration.****RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**2. Are you proposing this rule as a result of recent legislation? **No**3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**4. Statute(s) authorizing agency to adopt the rule: **3737.832**5. Statute(s) the rule, as filed, amplifies or implements: **3737.832**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The State Fire Marshal proposes to amend this rule for the purpose of creating a reporting protocol for the reporting of hazardous material incidents at a shale oil processing premises so that proper notification can be made in a timely manner to all necessary first responders.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE,

then summarize the content of the rule:

The regulation sets forth procedures that must be followed in the event of a hazardous material incident at a shale oil processing premises. The rule defines #hazardous material incident at a shale oil processing premises;# provides a hotline to which incidents must be reported; and outlines what information must be relayed.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

N/A - The material is generally available.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

N/A - The material is generally available.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. Five Year Review (FYR) Date: **11/1/2016**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required:

the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

**FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

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This proposed rule will not increase/decrease revenues/ expenditures for the agency.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

N/A

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Any costs associated with implementation of a telephone procedure for calling the One-Call hotline are expected to be minimal. Costs may include the publication of a fact sheet and/or posting of the One-Call hotline phone number. However, the development and posting of a fact sheet # or other educational material # is not mandated in the proposed rule. Likewise, posting of the One Call hotline number is also not mandatory.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **Yes**

You must complete the Environmental rule Adoption/Amendment Form in order to comply with Am. Sub. 106 of the 121st General Assembly.

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

There are no fines specifically associated with the regulation; however, the rule will be a part of the Ohio Fire Code (OFC). A violation of the OFC could result in a fine of zero to one thousand dollars; such a fine would only be imposed if a responsible person did not make notification of an incident or did not provide necessary information when making a report as required in the proposed rule. Please note, the rule contemplates situations when notification cannot be safely made under the circumstances and does not require reporting when reporting would be unsafe. No violation would occur (and therefore no fines would be imposed) in that scenario. Likewise, with respect to information that must be provided when a notification is made, the rule states that specified information must be relayed when such #is known or can be reasonable estimated.# There would be no penalty for the failure to report information that was not known and could not be ascertained by the reporting party.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

There are no specified expenditures. However, the regulation mandates that a responsible person (or, if the responsible person is not available, their representative) shall report to the State of Ohio any #fire incident at a shale oil processing premises# or a #hazardous material incident at a shale oil processing premises# by calling a #One-Call# hotline. The rule sets forth the protocol that must be followed; defines #fire incident at a shale oil processing premises# and #hazardous material incident at a shale oil processing premises#;# provides the phone number for the #One Call# hotline to which incidents must be reported; and outlines what information must be relayed.

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**Environmental Rule Adoption/Amendment Form**

Pursuant to Am. Sub. H.B. 106 of the 121st General Assembly, prior to adopting a rule or an amendment to a rule dealing with environmental protection, or containing a component dealing with environmental protection, a state agency shall:

- (1) Consult with organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment.
  - (2) Consider documentation relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or rule amendment.
  - (3) Specifically identify whether the proposed rule or rule amendment is being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program, whether the proposed rule or rule amendment is more stringent than its federal counterpart, and, if the proposed rule or rule amendment is more stringent, the rationale for not incorporating its federal counterpart.
  - (4) Include with the proposed rule or rule amendment and rule summary and fiscal analysis required to be filed with the Joint Committee on Agency Rule Review information relevant to the previously listed requirements.
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- (A) Were organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment consulted ? **Yes**

Please list each contact.

The SFM met, teleconferenced, and/or exchanged correspondence with the API and the OOGA (industry stakeholder groups) prior to filing the rule with CSI. The SFM worked extensively with these entities to edit and revise the language of the previously filed emergency rule establishing the One-Call hotline. After review of the revised rule, the SFM received positive feedback from both entities. The SFM will also hold a public hearing to further discuss the rule with stakeholders and all interested parties.

- (B) Was documentation that is relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or amendment considered ? **No**

Please indicate the reasons for not providing the information.

As the rule was created in response to Executive Order 2016-04K and simply

requires the reporting of specified information to a centralized dispatching center, no scientific data was used. However, the SFM did base its notification rule on ODNR's Division of Oil and Gas Resources Management's (DOGRM) rule. That rule was developed after a review of many laws, regulations and standards set at both the national and state levels. Going forward, the SFM intends to review OFIRS, which is a reporting system used by fire departments to report fires and other incidents to which they respond, including responses to hazardous material incidents. The SFM can utilize the data in OFIRS to compare calls being made to the One Call hotline to ensure that the system is being used and that incidents are being reported correctly.

- (C) Is the proposed rule or rule amendment being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program ? **No**

Is the proposed rule or rule amendment more stringent than its federal counterpart ? **Not Applicable**

- (D) If this is a rule amendment that is being adopted under a state statute that establishes standards with which the amendment is to comply, is the proposed rule amendment more stringent than the rule that it is proposing to amend? **No**