

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

Agency Name

Division Of State Fire Marshal

Division

Kevin Schmidt

Contact

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1301:7-9-03

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Reporting requirements for hazardous substances and list of hazardous substances.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

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: **3737.88 (A), 3737.88 (D)**

5. Statute(s) the rule, as filed, amplifies or implements: **3737.88 (A), 3737.88 (D)**

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

Five year rule revision required under ORC 119.032.

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:

Revised Code 3737.88 (D) requires the Fire Marshal to adopt a list of hazardous substances for the underground tank program consistent with and equivalent in scope to a corresponding federal list.

Defined UST systems not subject to BUSTR regulation are now summarized in the Administrative Code, 1301:7-9-01 "Applicability" for the purpose of regulatory clarity. The type of UST systems BUSTR regulates remains unchanged. A condition indentifying the discovery of a hazardous substance in a secondary containment system as a suspected release has been added. This addition is for regulatory clarity, the agency already interprets such an event as a suspected release.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

Not Applicable.

12. 119.032 Rule Review Date: **11/24/2004**

(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.

\$0

No change.

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

Not applicable.

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:

This rule serves to define hazardous substances and does not impose costs.

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.

Rule # 1301:7-9-03

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.

(A) Were organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment consulted?

 x
 Yes No

If YES, please list each contact.

See Attachment A

If NO, please explain why affected organizations were not contacted.

(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?

 X
 Yes No

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If YES, please list the information provided and attach a copy of each piece of documentation to this form (A SUMMARY OR INDEX MAY BE ATTACHED IN LIEU OF THE ACTUAL DOCUMENTATION).

The State Fire Marshal relies on a list of hazardous substances adopted by the United States Environmental Protection Agency. Revised Code Section 3737.88(D) requires the State Fire Marshal to adopt a hazardous substance list consistent with the federal list. The federal list can be found at 40 C.F.R. Chapter 1, Appendix A to 302.4.

If NO, please indicate the reasons for not providing the information.

- (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?

Yes No

If YES, is the proposed rule or rule amendment more stringent than its federal counterpart?

Yes No

If YES, what is the rationale for not incorporating the federal counterpart?

- (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?

Yes No

If YES, please explain why?

First Name	Last Name	Company	Address	City	State
John	Smith	Adjutant General	2825 W. Granville Road	Columbus Cuyahoga	OH
Michael	Darr	BP Oil	4850 E 49th St. MBC1-L	Hts	OH
Harry	Barles	County Commissioners Assoc. Dept of Rehabilitation & Corrections	37 W. Broad St., Suite 650	Columbus	OH
Reginald	Wilkinson	Englefield Oil Co.	1050 Freeway Drive North	Columbus	OH
John	Gordon		447 James Parkway	Newark	OH
			122 S. Front St., Lazarus Gov. Ctr.		
Amy	Yersavich	Environmental Protection Agy.		Columbus Yellow	OH
Bruce	Cornett	Green Environmental Coalition	P.O. Box 266	Springs	OH
Kevin	Miller	Hartley Co., The	P.O. Box 160	Cambridge	OH
Tom	Conti	Holland Oil Co.	E. Talmadge	Akron	OH
William	Thompson	Industrial Commission of Ohio	30 W. Spring Street	Columbus	OH
Thomas P.	Charles	Inspector General, Office of	30 East Broad St., 18th Floor	Columbus	OH
Laura	Lyden	Lyden Co. (Tru North LLC)	3711 LeHarps Road	Youngstown	OH
Ron	Lykins	Lykins Oil Co.	5300 DuPont Circle Suite C	Milford	OH
Angela	Brown	Marathon/Ashland, LLC	539 S. Main Street	Findlay	OH
Samuel	Speck	Ohio Dept of Natural Resources	Fountain Square	Columbus	OH
David L.	Scheffler	Ohio Chamber of Commerce	230 E Towne Street, Box 15159	Columbus	OH
J. Nick	Baird	Ohio Department of Health	246 N.High St. P.O. Box 118	Columbus	OH
Michael	Hogan	Ohio Department of Mental Health	30 East Broad St., 8th Floor	Columbus	OH
Kenneth L.	Morckel	Ohio Dept of Public Safety	77 S. High Street, 30th Floor	Columbus	OH
	Natalucci-				
Geno	Persichetti	Ohio Dept of Youth Services	51 N. High Street	Columbus	OH
Kenneth W.	Richey	Ohio Dept. of MR/DD	30 East Broad St., 12th Floor	Columbus	OH
Vicki	Deisner	Ohio Environmental Council	1207 Grandview Ave Suite 201	Columbus	OH
Stan	Crosley	Ohio Fire Chiefs	131 Dillmont Drive	Columbus	OH
Robert	Weitzel	Ohio Fire Chiefs Code Committee	131 Dillmont Drive	Columbus	OH
Susan J.	Cave	Ohio Municipal League	175 S. Third Street Suite 510	Columbus	OH
Daryl	Grau	Ohio Petroleum Contractors Assn.	112 North Street	Wilder	KY
Terry	Fleming	Ohio Petroleum Council	88 East Broad St. Suite 1460	Columbus	OH

Jennifer	Rhoades	Ohio Petroleum Marketers Association, Inc.	4242 Tuller Road, PO Box 490	Dublin	OH
Maurice	Helou	Ohio Petroleum Retailers & Repair Assn.	5615 Mayfield Road	Lyndhurst	OH
Jeff	Skelding	Ohio Sierra Club	145 N.High St. Suite 409	Columbus	OH
Roger	Sanson	Ohio State Firefighters	42 E Gay St. Suite 1212	Columbus	OH
Michael	Cochran	Ohio Township Association	5969 E. Livingston Ave Suite110	Columbus	OH
Richard	Morgan	Petroleum Equip.Inst.	3124 W. 142nd Street	Cleveland	OH
James J.	Leo	PUSTRCB	P.O.Box 163188	Columbus	OH
Ed	Henke	Shell Oil Products US	Wylmoor Drive	Norcross	GA
		Speedway/SuperAmerica LLC	500 Speedway Drive, PO Box 1500	Enon	OH
Scott	Heiser	Speedway/SuperAmerica LLC	500 Speedway Drive, PO Box 1500	Enon	OH
Michael	Byrne	Sun Company	`	Columbus	OH
Don	Smith	Swiftly Oil	P.O. Box 1002	Seymour	IN
Denis	Fitch	United Dairy Farmers	3955 Montgomery	Cincinnati	OH
Robert	Hopkins, Sr.	Unocal	2531 Tiller Lane	Columbus	OH
Dolores	Sieja	US EPA Region 5	77 W.Jackson Blvd DRU 7J	Chicago	IL
Andy	Tschampa	US EPA Region 5	77 W.Jackson Blvd DRU 7J	Chicago	IL