

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 1301:7-9-04

Rule Type: No Change

Rule Title/Tagline: Registration of UST systems.

Agency Name: Department of Commerce

Division: Division of State Fire Marshal

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I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 6/7/2022 and 06/04/2027
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 3737.02, 3737.88
5. What statute(s) does the rule implement or amplify? 3737.02, 3737.88
6. What are the reasons for proposing the rule?

Five-year rule review required pursuant to ORC 106.03.
7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

Rule 1301:7-9-04 promulgates registration requirements for underground storage tanks authorized under the Revised Code sections 3737.02 and 3737.88 and authorizes an annual registration fee of \$100 per tank. Governmental entities are exempt from the fee.

SFM-BUSTR is filing this rule as a No Change rule.

8. Does the rule incorporate material by reference? No
9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

Not Applicable

10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

Not Applicable

II. Fiscal Analysis

11. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.

This will have no impact on revenues or expenditures.

Not Applicable

Not Applicable

12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

The annual cost of compliance to UST owners is \$100 per tank or tank compartment. The United States, the State of Ohio, and political subdivisions are exempted from paying registration fees. The fee is also owed when the ownership of a UST system changes.

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No
14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). Yes
15. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

The BUSTR Program is funded primarily through two grants from the U.S. Environmental Protection Agency. The fees raised through any of BUSTR's rules, including this one, are devoted to a fund that supplies the state's required match, per the grant agreements, as well as for personnel essential to the program that are not otherwise covered by the grants.

III. Common Sense Initiative (CSI) Questions

16. Was this rule filed with the Common Sense Initiative Office? Yes

17. Does this rule have an adverse impact on business? Yes

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes

Yes. The rule requires USTs to be registered annually.

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

Yes. Pursuant to ORC 3737.882(C)(2), violations of most BUSTR rules, including this one, are subject to a statutory civil penalty of up to \$10,000 per violation, per day. As a practical matter, violators are provided opportunities to return to compliance well before a civil penalty is considered.

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

Yes. The rule requires a \$100 fee per tank and a submission of registration, change in ownership and change of product forms.

D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? Yes

Yes. The rule requires a \$100 fee per tank and a submission of registration, change in ownership and change of product forms.

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Part C - Environmental Rule Questions

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? Yes

Please list each contact.

API-Ohio
County Commissioners' Association of Ohio
County Engineers Association of Ohio
Ohio Chamber of Commerce
Ohio Contractors Association
Ohio Council of Retail Merchants
Ohio Department of Development
Ohio Department of Transportation
Ohio Environmental Council
Ohio Fire Chiefs' Association
Ohio Hospital Association
Ohio Manufacturers' Association
Ohio Municipal League
Ohio Petroleum Contractors Association
Ohio Petroleum Marketers and Convenience Store Association, nka Ohio Energy and Convenience Association

Ohio Petroleum UST Release Compensation Board
Ohio School Boards Association
Ohio Township Association

- (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? 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 requirements for registration notification of petroleum and hazardous substance UST systems are described in the Code of Federal Regulations (40 CFR 280.22, Notification requirements). The federal government requires states to register the tanks for regulatory accountability purposes.

- (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**

Is the proposed rule or rule amendment more stringent than its federal counterpart?
No 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**