

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

Agency Name

Division of State Fire Marshal

Division

David Sauer

Contact

**8895 East Main Street Reynoldsburg OH
43068-0000**

Agency Mailing Address (Plus Zip)

614-752-7096

Phone

Fax

1301:7-9-06

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

**Design, construction, installation, operation and maintenance
for UST systems.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **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: **3737.88**

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

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

Five year rule revision required by ORC 119.032. Incorporate new federal requirements into rule.

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:

Rule 1301:7-9-06 describes the requirements for installing and operating new

underground storage tank (UST) systems and existing UST systems.

More than 50% of the Rule 1301:7-9-06 is being amended, thus the existing rule is being rescinded and the rule is being filed as a new rule under the same rule number. Also, some of the requirements for the operation of new and existing UST systems (previously listed in Rule 1301:7-9-08) have been moved to Rule 1301:7-9-06 and organized in a manner to more clearly explain tank requirements with fewer cross-references to other rules.

Rule 1301:7-9-06 is being changed to meet the requirements of the Federal Energy Policy Act of 2005. When new USTs are installed at a site, double wall tanks must be used. Also, existing UST systems that are upgraded must meet secondary containment requirements for tanks, piping and containment areas (such as under dispensers). In addition, metallic tanks and piping (including piping that is submerged in water) must meet corrosion protection requirements in order to conform with federal regulations. Also, rule 1301:7-9-06 is being reorganized to provide more clarity with respect to its requirements.

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:

Materials incorporated by reference in this rule are generally available to affected persons (including UST owners and operators, licensed UST contractors and inspectors, and members of the fire service) in the following manner:

1. All text or materials are published by either other governmental agencies, private organizations or industry associations. All of these publications may be obtained from the publishing companies that distribute this material nationally or from the organization that promulgated the material or text. Some of these reference materials are free and some may be purchased for a reasonable fee.
2. The incorporated material is also available for review at the Division of State Fire Marshal during regular business hours.

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:

Not applicable.

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:

(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

This rule should not significantly change revenues or expenditures for the agency. Federal grant funding for the agency could be jeopardized if proposed changes within the rule are not adopted.

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:

A summary of costs is provided in Attachment A. The existing rule and the latest changes to the rule will create both costs and savings for persons complying with the rule.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

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 Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
Yes	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

A summary of costs is provided in Attachment A. The existing rule and the latest changes to the rule will create both costs and savings for persons complying with the rule.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

A summary of costs is provided in Attachment A. The existing rule and the latest changes to the rule will create both costs and savings for persons complying with the rule.

(a) Personnel Costs

See Attachment A.

(b) New Equipment or Other Capital Costs

See Attachment A.

(c) Operating Costs

See Attachment A.

(d) Any Indirect Central Service Costs

See Attachment A.

(e) Other Costs

See Attachment A.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

These costs are ordinary costs of conducting the business of the local government entity which will come from the normal operating budgets of the entities. The costs are not immediate, and government entities with regular maintenance schedules can anticipate these costs ahead of time as part of the process of planning new construction and upgrade work.

7. Please provide a statement on the proposed rule's impact on economic development.

This rule should not have any significant impact on economic development. The investment in double wall tanks, piping and containments will reduce clean-up costs and will help minimize disruptions to businesses that have to undergo clean-up operations.

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.

See Attachment B to Rule Summary and Fiscal Analysis.

(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.)

40 C.F.R. 280.30 Spill and overfill control, 40 C.F.R. 280.31 Operation and maintenance of corrosion protection, 40 C.F.R. 280.32 Compatibility, 40 C.F.R. 280.33 Repairs allowed, 40 C.F.R. 280.34 Reporting and recordkeeping. Federal Guidelines located at http://www.epa.gov/swerust1/fedlaws/epact_05.htm#grant: Grant Guidelines

to States for Implementing the Secondary Containment Provision of the Energy Policy Act of 2005, Grant Guidelines to States for Implementing the Inspection Provisions of the Energy Policy Act of 2005, Grant Guidelines to States for Implementing the Delivery Prohibition Provision of the Energy Policy Act of 2005.

- (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 ? **No**

- (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**

Not Applicable

Attachment A: Cost Analysis of Compliance with Proposed Rules 1301:7-9-06 and 1301:7-9-07 of the Administrative Code

The United States Environmental Protection Agency (“USEPA”) has mandated that BUSTR promulgate rules in accordance with the Energy Policy Act of 2005. In November 2006, USEPA published guidance to assist the States in promulgating rules. Rules 6 and 7 are based on USEPA’s guidance document entitled “Grant Guidelines to States for Implementing the Secondary Containment Provision.”

The majority of owners of underground storage tanks in Ohio (“UST”) will not experience a financial impact from the promulgation of Rules 6 and 7. The Energy Policy Act requirements are triggered only when an owner replaces or installs specific equipment. The cost of compliance for the new requirements is estimated based on actual site-work bids collected by BUSTR from contractors, consultants, and manufacturers. Actual work at a given UST facility will depend upon a number of variable factors, including labor costs, site-specific needs, and operational needs of UST facilities.

Proposed Rules 6 and 7 will be triggered after a UST owner takes affirmative action to install a new tank or replace an existing single-wall tank with a double-wall tank. A double-wall tank adds an average of \$3,260 to the cost of a new UST installation or replacement project, based on an 8,000 gallon UST. According to bids collected, the average cost of one UST installation today is \$108,000, which includes the cost for release detection equipment (usually in the form of interstitial monitoring). Therefore, requiring double-wall tanks equates to a 3% increase in the cost of installation of a UST.

When a single-wall UST is replaced, Rule 6 requires that the single-wall piping associated with that tank be replaced with double wall piping. Existing double-wall piping is not required to be replaced with new double-wall piping. The cost of installing double-wall piping will vary based on the linear footage required at a given facility. Rule 6 also requires the installation of double wall piping when 50% or more of the piping is voluntarily upgraded without the replacement or installation of a new UST. The requirement only applies to the single-wall piping associated with the tank being replaced or the single-wall piping that is being upgraded. On average, installing double-wall piping costs \$45 per linear foot.

When an existing dispenser island is replaced and the connecting equipment and main line under the dispenser is modified or replaced, Rule 6 requires that under-dispenser containment be installed. The installation of under-dispenser containment is limited to the dispenser being replaced or repaired. The cost of the under-dispenser containment and installation averages \$3,230 per containment.

Proposed Rule 7 requires that any new containment be equipped with a release-detection sensor. The cost of the sensor including installation averages \$550 per containment. Proposed Rule 7 also requires operational checks every three years of the release detection equipment associated with piping and containment systems. The cost of performing tightness testing on the containment areas every three years averages to \$88. The cost of annually testing a sump sensor in containment is de minimis.

The additional cost a UST owner will incur in complying with Proposed Rule 6 and 7 is minor compared to the cost an owner will incur in responding to, assessing and remediating a release of petroleum into the environment. The Petroleum Underground Storage Tank Response Compensation Board estimates that it will cost the UST owner approximately \$121,000 in responding to, assessing and remediating a release of petroleum.

Attachment B

Organizations Consulted

Since January of 2007, the Division of State Fire Marshal, Bureau of Underground Storage Tank Regulations (BUSTR) has held several meetings with stakeholders to discuss proposed changes to the BUSTR regulations. These meetings were open to the public and included representatives from a cross section of the regulated community. All participants were encouraged to participate in the open discussions and to submit written comments on any topic that concerned them. In July of 2009, BUSTR initiated a web based petition process to inform the public of the rule review process and to encourage the public to participate in amending the BUSTR regulations. BUSTR has received over 2,300 petitions requesting changes to the BUSTR regulations. Below is a list of dates when BUSTR held meetings with the public to discuss changes to the BUSTR regulations.

January 30, 2007, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees attached.

March 28, 2007, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees not attached.

April 25, 2007, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees not attached.

October 24, 2007, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees attached.

January 30, 2008, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees attached.

February 25, 2009, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees attached.

May 7, 2009, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees attached.

June 29, 2009, Web Based Petition Period Opens.
https://www.comapps.ohio.gov/sfm/fire_apps/fire/petition/
Copy of web page attached.

July 30, 2009, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees attached.

August 19, 2010, Web Based Comment Period Opens.
https://www.comapps.ohio.gov/sfm/fire_apps/fire/petition/
Copy of web page attached.

UST Rule Advisory Board Meeting
January 30, 2007

Steven Krichbaum	BUSTR
Pete Chace	BUSTR
Loni Stevens	BUSTR
JIM LEO	P U S T R C I B
Jennifer Rhoads	OPMCA
TOM STEPHENSON	STEPHENSON OIL CO.
Jenn Klein	Ohio Chamber of Commerce
John Gordon	Englefield OIL
KEN MYERS	OML
Kent Sarratt	Ohio Municipal League
Milly Stipp	District Petroleum
TIM THICKSTUN	PUBLIC
Sheryl Knappp	SFM - Testing + Reg.
DAVID REEDER	PETRO BOARD
BILL MORGAN	COLLINS EQUIPMENT CORP
GLYDE H. KENCIE	OHIO FIRE CHIEF
Karen Reese	FirstEnergy Corp
Brian Epperson	Speedway SuperAmerica
Dave Mitchell	Reliable Construction OPCA
JIM ROCCO	PustrCB
James Hill	USTRAINING

BUSTR Underground Storage Tank Rule Meeting, October 24, 2007

	NAME	ORGANIZATION	TELEPHONE NUMBER	Email
1	Steven Krichbaum	BUSTR	614-752-7921	sd.krichb@com.state.oh.us
2	Paul C Van Horn	OHIO FIRE CHIEFS	614-879-8265	AC252BWH@NETSCAPE.NET
3	Dave Mitchell	OPMCA	937-461-2250	dmitche@anellia.com
4	Lori Stevens	BUSTR	614-283-9356	lori.stevens@bustr.org
5	Sue Kist	T & R	614-995-0301	sue.kist@tr.com
6	David Miller	AEP	614- 716 716.1293	damiller@aep.com
7	Matt Powell	AEP	614.716,3142	mpowell@aep.com
8	Lee Beckman	BECK SUPPLY INC	419-426-3051	leebeckman@beckoil.com
9	Michelle McKee	Speedway Supermarket	937 863 7034	mlmckee@ssalle.com
10	Keira Martin	" "	437-843-4995	ke.martin@esee.com
11	Mike Strip	District Petroleum	449-435-8373	mikes@kym.tkc.com
12	John Gordon	Englefield oil	790.928.8215	JohnGordon@englefieldoil.com
13	Jennifer Rhoads	OPMCA	614-792-5212 X3	jrhad@opmca.org
14	Karen Reese	FirstEnergy	330-384-5948	kreesek@firstenergy.com
15	Dave Mueser	AEP	614-716-1293	dmueser@com.state.oh.us
16	ERUIE DAVIS	COMMERCE	614-644-7050	edavis@com.state.oh.us
17	 	 	 	
18	Vernie Ord	BUSTR	614-752-7095	Vernie.Ord@com.state.oh.us
19	BARRY HAWGESSON	Pets Petroleum	330 264 1885	BARRY@FUELMAKER.COM
20	Steve Thidstrom	HAST/Advanced Fuel	614-252-8122	STEVE@ADV.FUEL.COM

BUSTR Underground Storage Tank Rule Meeting, October 24, 2007

	NAME	ORGANIZATION	TELEPHONE NUMBER	Email
21	Starr Richmond	UST Board	752-8963	PLEASE ADD TO DISTRIBUTION LIST Srichmond@petroboard.com
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BUSTR Underground Storage Tank Rule Meeting, January 30, 2008

	NAME	ORGANIZATION	TELEPHONE NUMBER	Email
1	Steven Reichbaum	BUSTR	614-752-7921	Selkric hb@com.state.oh.us
2	Dave Mitchell	OPEN Reliable Const.	937-461-8250	dmitchell@reliarow.com
3	Karen Perse	First Energy	330-384-5948	kperse@firstenergycorp.com
4	Rusty Aole	Petroleum Systems Inc	330-753-5304	PETSYS@LEK.NET
5	Steve Thickstull	Advanced Fuel Systems	614-252-8422	steveth@advfuel.com
6	Ed William	Beck Suppliers	419-426-3051	ewilliam@beck.oil.com
7	Brey Hanson	Toots Petroleum	330 264 1885	Brey@FuelMart.com
8	Dave Reeder	Pu STRCB	614-752-8963	dredder@petroboard.com
9	Starr Richmond	Pu STRCB	614-752-8963	srichmond@petroboard.com
10	Tim Rocca	Pu STRCB	(916) 577-5100	TRocca@SAESRISK.COM
11	Verne Oehl	BUSTR	(614) 752-7095	Verne.Oehl@cum.state.oh.us
12	Keith Morris	SSA	937-863-6995	KLMorris@ssa.ohio.com
13	Michelle McKee	SSA	937-863-7034	mlmckee@ssa.ohio.com
14	PAUL C. VAN HOAN	OH FIRE CHIEFS ASSOC	740-837-0268	AC252BVH@NETSCAPE.NET
15	TOM STEPHENSON	STEPHENSON OIL CO	513-863-7080	TGSS50CWAR@OIL.COM
16	SUE KIST	SOH/TIR		
17	Mark Powell	American Eastern Bank	614-716-3142	mpowell@oep.com
18	RAY WIRT	American Electric Power	330-438-7763	ERWIRT@AEP.COM
19				
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BUSTR Underground Storage Tank Rule Meeting, February 25, 2009

NAME	ORGANIZATION	TELEPHONE NUMBER	Email
1 Steven Krichbaum	SEM / BUSTR	614-752-7921	skrichb@com.state.oh.us
2 Doug Darcral	AIC Associates	216-701-0252	Douglas.Darcral@atassociates.com
3 Alan Richmond	BUSTRB	614-752-8963	Srichmond@petreboard.com
4 SEPT JOHNSON	Z-ELCEN OR	847-608-1136	Scott.Johnson@7-11.com
5 Brian Epperson	SSA	937-863-6514	bkepperson@ssa.com
6 GEORGE HUBBARD	SEM/BUSTR		George.Hubbert@ghernath.com state.oh.us
7 Jason Greco	BSAAM	330-854-5300	jgreco@bjaam.com
8 JEFF MYERS	BIAAM	330-815-0440	jmyers@bjaam.com
9 Tom STEPHENSON	STEPSON OIL	513-863-7080	TASSOCIATE@AOC.Oh
10 LEI BECKMAN	BECK SUPPLIERS	419-426-3051	lebeckman@BECKOIL
11 TIM THICKSTON	M PST	614-252-0565	STEVE@ADVUEL.COM
12 Steve THICKSTON	M PST	"	"
13 John Gannon	Englefeld oil	740-928-8215	JGannon@Englefelds.oil.com
14 Jim Rocca	PUSTRCB	(330) 562-9791	JRocca@SACKRIST.COM
15 Verne Orod	BUSTR	(614) 752-7055	Verne.Orod@com.state.oh.us
16 Karen Reese	FirstEnergy	(330) 384-5948	reesek@firstenergycorp.com
17 James H. Housh	FirstEnergy	330 264 1885	JHoush@FirstMoet.com
18 Leonard H. Housh	HML + Housh	614.743.8777	LHoush@hullinc.com
19 Bill Morgan	Collins Equip	216 641 4300	bmorgan@collinsequip.com
20 JENNIFER RHOADS	OPACA	614 792 5212	Jrhoads@opaca.org

BUSTR Underground Storage Tank Rule Meeting, February 25, 2009

	NAME	ORGANIZATION	TELEPHONE NUMBER	Email
21	Valentine Ejirofa	APL-0770	7614-76-2280	Vejirofa@aep.com
22	RAY WIRT	NEP	330-438-7763	ERWIRT@AEP.COM
23	Sheryl Knapp	SFM		
24	James Hill	WST	330 862 9127	JDHILL@hobman
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BUSTR Sign-In Sheet

Meeting Name Pre-Meet OPMCA

Date 6.7.09

Name	Representing
GEORGE HEATH	BUSTR
ERIE DAVIS	COM
LORI STEVENS	BUSTR
BARRY HANDBERSON	PARTS PETROLIUM
Dave Mitchell	Reliable Const./OPCA
TIM KOCCO	BUSTR CB / OPMCA
Jennifer Rhoads	OPMCA / OPCA
Verney Ord	BUSTR
Kelly Gill	BUSTR
/ SUE MUST	T & E (SFM)
Steven Reichbaum	BUSTR
Gordon Gough	Retail Merchants
BRIAN K. EPPERSON	Speedway SuperAmerica
Michelle McKie	Speedway SuperAmerica

BUSTR/Intra-Industry Rules Process & Development Procedures

Meeting Attendance

July 30, 2009

Location: SFM Multi Purpose Room

<u>Name</u>	<u>Affiliation</u>	<u>Phone #</u>	<u>E-mail</u>
TIM RECCO	OPYCA/SPACE	(330) 562-9391	jrecco@space.com
Steve Richmond	Petro Board/Fund	614.752.8963	srichmond@petroboard.com
Steve Thickett	HAST	814-252-8422	stovet@advfund.com
MIKE MYSPEEK	PRR MAR OIL	240-373-7406	mmspeek@parsons.com
MIKE DARR	BP Products N.A.	216-271-8535	Michael.Darr@BP.com
RAY KENNEDY	HULL ASSOCIATES, INC	614-793-8777	rkenedy@hullinc.com
Audrey Shuck	Parsons	216-912-2904	andrew.shuck@parsons.com
ANDY BROCKHAUS	BARBETT PAVING	513-271-3032	abrockhaus@charrettpaving.com
MIKE BYRNE	SUNOCO	614-275-4915	mbyrne@sunoco.com
EARLE DAVIS	Com	614-644-7050	edavis@com.state.oh.us
YASIR STRAEBMAN	COM-IT	614-644-7193	ystrahman@com.state.oh.us
STEVEN HUBBARD	SFM/BUSTR	614-752-7924	sdrain@com.state.il.us
LOREI STEVENS	SFM/BUSTR	614-387-7390	lori.stevens@com.state.oh.us
Kelly Gill	SFM/BUSTR	614-958-7771	KTGill@com.state.oh.us
MARGARET REESE	FirstEnergy	330-384-5948	mrees@firstenergy.com
RAY WIRTH	American Electric Power	330-438-7763	rwirth@aepp.com
Scott McPherson	SUNOCO	330-854-5300	smcpherson@sunoco.com
PAUL GULTER	City of Akron	937-376-7282	pgulter@cityofakron.com
MATT SIKINS	Allied Environmental	419-227-9004	msikins@allied-env.com

BUSTR/Intra-Industry Rules Process & Development Procedures

Meeting Attendance

July 30, 2009

Location: SFM Multi Purpose Room

<u>Name</u>	<u>Affiliation</u>	<u>Phone #</u>	<u>E-mail</u>
Carole Sprague	CTL Engineering	614-276-8123	csprague@ctleng.com
Krista Keating	SSALCC	937 843 6995	keating@ssalcc.com
Doug Barrak	ATC Associates	440-838-7177	dbarrak@atcass.com
SARA UNSELL	ERS, Inc.	419-354-0515	sunsell@ersinc.net
Carol Albrecht	KV Resources, Inc	330-868-0618	calbrecht@kvresources.com
Larrie Rasik	Ohio EPA	614-644-2324	larrie.rasik@epa.state.oh.us
Bryan W. Witt	ARCADIS	614 799 4756	bryan.witt@arcadis-us.com
Craig Davis	Marathon Petroleum	419-421-2659	craigm.davis@marathonpetroleum.com
Eric Shaver Her	ARCADIS	614-299-4727	eric.shaver@arcadis-us.com
Matt Lynn	ARCADIS	614-299-4734	matthew.lynn@arcadis-us.com
Brian McPherson	BIAM ENV.	330-854-5340	brianm@biam.com
Ed Wolcum	EMU VST INSP SERV.	614-370-1776	ewolcum@emustat.com
John Goodou	Englefield oil	740-928-8215	jgoodou@englefieldoil.com
Robin Roth	Ohio EPA, CDO	614-728-2446	robin.roth@epa.state.oh.us
Kevin Hodgett	ODOT	614-466-7925	kevin.hodgett@dot.state.oh.us
George Horvath	BUSTR	614 985-4246	g.horvath@com.state.oh.us
Verne Ord	BUSTR	614 752 7095	verne.ord@com.state.oh.us
Jennifer Rhoads	OPMCA/OPA	614/792-5212 x3	jrhad@opmca.org



Commerce State Fire Marshal : Document Petition / Comment Form

PETITION/COMMENT INFORMATION

BUSTR

NOTE: You are outside of the BUSTR petition time period. Any petition submitted today will be considered during the next review cycle.

Resources

[BUSTR's Rule Revision/Development Process and Documents \(PDF\) .. UPDATED WITH NEW DATES](#)

[Limited Report on Petitions – Detailed Report On All Submitted Petitions For BUSTR Rules 6, 7, 8, and 18 \(PDF\) NEW](#)

On-Line Applications

[BUSTR Petition / Comment Form](#)

CODE ENFORCEMENT

NOTE: The Comment Period for the Ohio Fire Code opened on 4/26/2010 and will close on 10/31/2010.

Resources

[Draft Proposed Ohio Fire Code – including all changes made in the ROP NEW](#)

[Ohio Fire Code Rule Revision/Development Process and Documents \(PDF\) .. UPDATED](#)



Department of Commerce

Division of State Fire Marshal

Ted Strickland, Governor
Kimberly A. Zurz, Director

BUSTR Rule Revision/Development Process

The Ohio Department of Commerce, Division of State Fire Marshal, Bureau of Underground Storage Tank Regulations (BUSTR) has begun its mandatory five year rule review for the existing BUSTR administrative rules and is simultaneously drafting new rules to conform to the requirements of the Energy Act of 2005 for three topic areas: (a) owner/operator training, (b) secondary containment, and (c) delivery prohibition. Thus, BUSTR is currently in the process of revising and/or writing four sets of administrative rules:

1. All existing BUSTR administrative rules
2. New administrative rules for owner/operator training
3. New administrative rules for secondary containment
4. New administrative rules for delivery prohibition

Update as of August 2010: To conform to the requirements of the Federal Energy Policy Act of 2005 for secondary containment and delivery prohibition, BUSTR Rules 6, 7, 8 and 18 are being considered separately from the remaining BUSTR rules. All other BUSTR rules, including owner/operator training, will be considered later in the year.

BUSTR values the input of all stakeholders in the regulatory process and encourages your participation in the rule revision/development process.

Generally, the revision/development process involves four steps:

1. **Petition Period** is the period of time when a stakeholder may submit one or more written petitions via the online Petition/Comment form to suggest a revision to an existing, or newly drafted, rule.
 - A compendium of all submitted petitions, along with BUSTR's response to each of them, will be published shortly after the petition period closes. This will be called the "report on petitions" or "ROP."
 - For those who cannot access the online from, the SFM/Code Enforcement Bureau is available to assist.
2. **Comment Period** is the period of time when a stakeholder may submit one or more written comments via the online Petition/Comment form regarding one or more previously submitted petitions.
 - A compendium of all submitted comments, along with BUSTR's response to each of them, will be published shortly after the comment period closes. This will be called the "report on comments" or "ROC."

3. **Ohio's Formal Rule Adoption Process** that involves filing the new draft of the rules with the legislature (referred to as the "final draft" at this point), publishing the final draft in the Register of Ohio, holding a mandatory public hearing, and going through the Joint Committee on Agency Rule Review (JCARR) process for final acceptance.
4. **Publishing and printing** (hard copy and online) of the new and amended BUSTR Rules.

The Principles of the Rule/Development Process

Early in the process, especially where no rule currently exists (e.g., the requirements under The Energy Act of 2005), BUSTR will organize one or more "stakeholder meetings" where the stakeholders, industry representatives, and subject matter experts meet to exchange ideas with the SFM. The purpose of these verbal exchanges is to (a) inform stakeholders about the rule development/revision process, (b) inform stakeholders of what to expect in the initial draft of a future rule, (c) solicit feedback from those present regarding the concepts the SFM presents, and (d) have stakeholders inform the SFM of ideas and concerns, even if they have nothing to do with anything previously presented. At a stakeholder meeting, although there will likely be notes taken, there is generally no exchange or submission of written documents because the focus is on the exchange and explanation of concepts and ideas.

When new (usually Federal) requirements force the development of one or more new rules—such as those required by The Energy Act of 2005—BUSTR produces and distributes an initial draft of each rule (e.g., new administrative rules for owner/operator training and secondary containment) once the bureau is well informed of the ideas, concerns and positions of stakeholders. This initial document then becomes the basis for the subsequent Petition Period, and suggestions for changes to it are submitted to BUSTR through the online Petition/Comment Form.

During the Petition Period, all interested stakeholders may file petitions for proposed BUSTR rule changes. Petitions on any topic may be submitted at any time during the year, but submission prior to the closing date of the Petition Period will provide the stakeholder with the best chance of having the submitted petition considered in the current rule revision cycle. Petitions received after the Petition Period closes will be considered in the next rule revision cycle. After the Petition Period closes, each petition is thoroughly researched, a response is developed (e.g., Report on Petitions or ROP), and a draft of the proposed BUSTR rule (along with the ROP) are recommended to the Department of Commerce for approval. After approval, the ROP is released on the SFM Website, the draft of the proposed BUSTR rule is released to stakeholders, and the Comment Period begins.

During the Comment Period, the Report on Petitions is available for review by any person via the SFM Website, and comments on the petitions may be submitted through the online Petition/Comment Form. After the Comment Period closes, each comment is thoroughly researched, a response is developed (e.g., Report on Comments or ROC), and a final draft of the proposed BUSTR rule (along with the ROC) are recommended to the Department of Commerce for approval. After approval, the ROC is released on the SFM Website and the final draft of the proposed BUSTR rule is submitted to Ohio's formal rules adoption process.

A list of dates relevant to this process can be found below under "Key Timeline/Dates."

About Completing the Online Petition/Comment Form

Where a rule currently exists (e.g., BUSTR administrative rules), petitions for changes to these existing rules may be submitted anytime using the online Petition/Comment Form.

A petition or comment must be submitted electronically, but anyone without access to the online forms may request assistance from BUSTR (see contact info below). The electronic Petition/Comment form has buttons that will assist the user in correctly formatting text in the petition. New (added) text must be underlined (e.g., new words used) and deleted text must be identified by strikeout (e.g., ~~words deleted~~). All petitions and comments must be submitted electronically no later than 5:00 pm on the day of the deadline identified below. The Petition/Comment Form can be accessed by clicking here.

Questions about the rule revision/development process can be directed to BUSTR at:

Division of State Fire Marshal
8895 E. Main Street.
Reynoldsburg, Ohio. 43068

800-686-2878 (Ohio Toll Free) or
614-752-7938
email: webbustr@com.state.oh.us

To receive email notification of updates placed on the BUSTR Website including changes to the Agenda and when submissions and postings have been made please sign up by sending an email to: webbustr@com.state.oh.us.

Instructions for Submitting the Petition/Comment Form:

1. **Please Use Only the Online Petition/Comment Form Provided:**
 - a. Petitions and/or comment submissions on any other form, or in any format, will not be accepted.
 - b. For those who cannot access the online form, SFM/BUSTR is available to assist.
2. **One Petition/Comment Form per Suggested Change/Comment:**
 - a. A single Petition/Comment form must be submitted for each requested change and/or comment. BUSTR can not track multiple comments or requests contained within a single Petition/Comment form.
 - b. The Petition/Comment form must be completed in its entirety in order to be considered in the rule development/revision process.
3. **Please Save a Copy of Your Submitted Petition/Comment**

Key Timeline Dates:

Please note that asterisk (*) denotes items of interest and are addressed below.

- 06/29/09** **Petition Period Opens**
 BUSTR is accepting Petitions on the following:
 1. All existing BUSTR administrative rules
 2. New administrative rules for owner/operator training
 3. New administrative rules for secondary containment
 4. New administrative rules for delivery prohibition
- 07/30/09**** **Meeting of Stakeholders at Ohio Fire Academy (map)**
100pm – 400pm The voluntary meeting will be followed by a voluntary Stakeholder Intra-Industry Meeting***
- 09/18/09** **Petition Period Closes**
- 08/19/10** **BUSTR Publishes Limited ROP on BUSTR Web Site for BUSTR Rules 6, 7, 8 and 18******
- 08/19/10** **Comment Period Opens for BUSTR Rules 6, 7, 8 and 18**
- 09/03/10** **Comment Period Closes for BUSTR Rules 6, 7, 8 and 18**
- TBA** **BUSTR Publishes Limited ROC on the BUSTR Web site for BUSTR Rules 6, 7, 8 and 18**
- TBA** **Ohio's Formal Rule Adoption Process**
 - Draft filed with Legislative Service Commission (LSC)
 - Draft published in the Register of Ohio
 - JCARR process
- TBA** **Rules Accepted, Published and Printed**

* NOTE: In the event that the ROP is published after the date listed, all subsequent timeline dates will be adjusted accordingly.

** In the interest of achieving an improved understanding of the new BUSTR rule revision/writing process and meeting customer needs, a few agenda items from the previously discussed agenda have been adjusted.

*** The intra-industry meeting is intended as an opportunity for stakeholders to discuss amongst themselves potential petitions and/or comments of the BUSTR rules. BUSTR personnel may attend, but will not facilitate the discussion, and will only participate by providing information about BUSTR.

**** To conform to the requirements of the Federal Energy Policy Act of 2005 for secondary containment and delivery prohibition, BUSTR Rules 6, 7, 8 and 18 are being considered separately from the remaining BUSTR rules. All other BUSTR rules, including owner/operator training, will be considered later in the year.