

**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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Agency Mailing Address (Plus Zip)

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**1301:7-9-06**

Rule Number

**RESCISSION**

TYPE of rule filing

Rule Title/Tag Line

**Design, construction, installation, and upgrading for UST systems.****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**

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 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:

Rule 1301:7-9-06 describes standards for the installation of new UST systems, and upgrade standards for UST systems installed prior to December 22, 1988.

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:

Referenced standards are generally available to all affected parties. The reference standards can easily be purchased from the standard making organization. The affected parties typically will be professional engineers or otherwise professionals in the field of underground storage tank installation, removal and repair. These parties would be expected to already own these standards in order to conduct their business.

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:

It was infeasible for the agency to file the text electronically due to copyright issues with the standards making organizations. The standards are 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:

Texts are obsolete and are being replaced with new reference standards.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

Attachments added

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

This rule should not significantly change revenues or expenditures for the agency.

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:

The cost to install a UST system can vary widely depending on the type of tank, type and length of piping, type of corrosion protection and leak detection installed, number and type of dispensers, and whether the installed system has some form of secondary containment. BUSTR solicited price quotes from UST installers for a typical installation of three 10,000 gallon UST systems, and received cost estimates ranging from \$20,000 to \$50,000 per UST system.

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 (please check each that applies)?
- |                      |   |              |   |               |   |                            |   |
|----------------------|---|--------------|---|---------------|---|----------------------------|---|
| (a) School Districts | X | (b) Counties | X | (c) Townships | X | (c) Municipal Corporations | X |
| _____                |   | _____        |   | _____         |   | _____                      |   |

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.

**The cost to install a UST system can vary widely depending on the type of tank, type and length of piping, type of corrosion protection and leak detection installed, number and type of dispensers, and whether the installed system has some form of secondary containment. BUSTR solicited price quotes from UST installers for a typical installation of 3 10,000 gallon UST systems, and received cost estimates ranging from \$20,000 to \$50,000 per UST system.**

**This rule revision imposes additional requirements on new UST installations beyond what is required in the previous rule. The cost of double walled piping with attendant fittings and connectors is approximately 20% more than single wall piping. The cost of installing dispenser sumps is approximately \$500 per sump, and the cost of installing submersible pump sumps is approximately \$750 per sump. It should be noted that the overwhelming majority of new installations use double walled piping and sump systems because of their proven effectiveness in preventing releases of petroleum product into the environment.**

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?

  X                        \_\_\_\_\_  
Yes                              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.

**Containment sumps for dispensers and submersible pumps are an additional requirement. Leak autopsy data suggests that a significant number of releases occur in these sump areas, and this additional requirement for new UST installations will provide cost effective environmental protection.**

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the costs 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.

**This rule does not impose any upgrade requirements for existing UST systems. All additional costs are for new installations.**

**The cost to install a UST system can vary widely depending on the type of tank, type and length of piping, type of corrosion protection and leak detection installed, number and type of dispensers,**

and whether the installed system has some form of secondary containment. BUSTR solicited price quotes from UST installers for a typical installation of 3 10,000 gallon UST systems, and received cost estimates ranging from \$20,000 to \$50,000 per UST system.

This rule revision imposes additional requirements on new UST installations beyond what is required in the previous rule. The cost of double walled piping with attendant fittings and connectors is approximately 20% more than single wall piping. The cost of installing dispenser sumps is approximately \$500 per sump, and the cost of installing submersible pump sumps is approximately \$750 per sump. It should be noted that the overwhelming majority of new installations use double walled piping and sump systems because of their proven effectiveness in preventing releases of petroleum product into the environment.

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.**

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 should occur.**

Rule # 1301:7-9-06

**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

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

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(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

Rule # 1301:7-9-06

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).  
See Attachment B

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

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(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?

The requirement for dispenser and submersible pump sumps, and double walled piping for new UST installations is more stringent than current federal requirements. The reasons for their inclusion are that studies confirm these are effective means of leak detection with a small additional cost, and that most new installations of UST systems already meet these requirements.

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(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?

The requirement for dispenser and submersible pump sumps, and double walled piping for new UST installations is more stringent than the current rule governing new UST installs. The reasons for their inclusion are that studies confirm these are effective means of leak detection with a small

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additional cost, and that most new installations of UST systems already meet these requirements. The prohibition of internal lining for the purpose of cathodic protection is more stringent, due to the fact that these systems have shown a failure rate of approximately 60% during 5 year inspections.

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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
Amy	Yersavich	Environmental Protection Agy.	122 S. Front St., Lazarus Gov. Ctr.	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
Geno	Natalucci-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	Swift 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

**Cost Analysis of Compliance with Rule 1301:7-9-06 of the Administrative Code**

- I. There are several installation and upgrade options available to the owner or operator of an underground storage tank (“UST”) system. The selection of a particular option will be made by the owner or operator based upon their specific circumstances. The option selected may have a significant impact on the cost of either installing or upgrading an UST system. The cost analysis provided below summarizes the costs associated with various options available to the owner or operator of an UST system.

The average cost of installing a new 10,000 gallon UST system varies between \$7,000 and \$17,000 depending on the type of UST system selected. In addition to the actual cost of the UST and piping, this total includes the cost of testing, permitting and supervision and the installation of spill and overfill protection. The cost of spill and overfill protection for UST systems is approximately \$1,250. The cost of testing permitting and supervision is approximately \$950. The cost estimate provided does not include site specific costs such as concrete work or landscaping. These variable costs are impossible to reliably estimate due to site variability and are not costs directly attributable to the requirements in the rule.

The information relied upon in the preparation of this fiscal analysis was obtained from consultants and contractors who submitted copies of actual bids for work relating to the installation and upgrade of UST systems. Some costs are specifically addressed in the BUSTR rules such as permit, inspection and application fees. In addition, owners and operators and equipment suppliers provided cost information related to the installation and upgrade of UST systems. A detailed breakdown of these costs follows:

- A. Average cost of a new 10,000 gallon UST system (all options available):

Single Wall:	\$8,500
Double Wall:	\$17,000

- B. Average cost of new UST system piping (either option available):

Steel:	\$1,500
Fiberglass:	\$10,000
Double Wall Flexible Piping	\$15,000

- C. Other installation and upgrading costs (apply to all installations, upgrades and repairs of UST systems.

Final tightness test after upgrade of installation:	\$300
Permits:	\$ 35
Certified inspector on site:	\$130
Certified installer on site:	\$460
Purchase of professional reference standards:	<u>\$ 30</u>
Total:	\$955

**D.** Other equipment requirements:

Spill and overflow prevention equipment (one time cost):	\$1,250
Corrosion protection system (steel tanks or piping):	\$7,000

**II.** The Fire Marshal, in adopting this rule relied upon the following documents and technical standards:

- 40 C.F.R. 280.20 Performance Standards for new UST systems.
- 40 C.F.R. 280.21 Upgrading of existing UST systems.
- 40 C.F.R. 280.22 Notification requirements.

National Fire Prevention Association Standard 30-03  
American Petroleum Institute Publication 1632-96  
Petroleum Equipment Institute Publication RP100-00  
American Petroleum Institute Publication 1615-01  
American Petroleum Institute Publication 1631-97  
National Leak Prevention association Standard 632-98  
American Petroleum Institute Publication 1621-93  
American National Standards Institute B31.1-02