

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 1301:7-9-10
Rule Type: No Change
Rule Title/Tagline: Permits for 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?** 3737.88
5. **What statute(s) does the rule implement or amplify?** 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 1301:7-9-10 establishes the permit requirements for the installation, removal, closure-in-place, out-of-service, change in service, change of product, major repair, and modification of UST systems.

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 permit fee amount is unchanged. Existing permit fees are \$35 for persons electing or needing to perform work on their UST systems.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes**

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 a permit in order to perform an installation, removal, closure-in-place, out-of-service, change in service, change of product, major repair, or modification of a UST system.

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. Forms for a permit application are to be submitted along with the \$35 permit fee. This information allows BUSTR to maintain an accurate database of USTs in Ohio.

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. A permit application is to be accompanied by a \$35 fee.

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Part B - Local Governments Questions

1. Does the rule increase costs for:

A. Public School Districts	Yes
B. County Government	Yes
C. Township Government	Yes
D. City and Village Governments	Yes

2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.

The permit fee is unchanged from current rule requirements. Existing permit fees are \$35 for persons electing to perform work on their UST systems. The cost of compliance of the current rule for school districts, counties, townships, or municipal corporations is the same as the cost of compliance incurred by private entities.

3. Is this rule the result of a federal government requirement? Yes

- A. If yes, does this rule do more than the federal government requires? No**
- B. If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**

Not Applicable

4. Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:

A. Personnel Costs

Not Applicable

B. New Equipment or Other Capital Costs

Not Applicable

C. Operating Costs

Not Applicable

D. Any Indirect Central Service Costs

Not Applicable

E. Other Costs

The permit fee is unchanged from current rule requirements. Existing permit fees are \$35 for persons electing to perform work on their UST systems. The cost of compliance of the current rule for school districts, counties, townships, or municipal corporations is the same as the cost of compliance incurred by private entities.

5. Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.

The permit fee is unchanged from current rule requirements. Existing permit fees are \$35 for persons electing to perform work on their UST systems. These costs are ordinary costs of conducting business of the local government entity which will come from the normal operating budgets of the entities.

6. What will be the impact on economic development, if any, as the result of this rule?

This rule should not have any impact on economic development.

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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.)

40 CFR Part 280 Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST).

Federal grant guidelines located at <https://www.epa.gov/ust/ust-policy-and-guidance>.

- (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**