

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 1301:7-9-11

Rule Type: No Change

Rule Title/Tagline: Underground storage tank installer certification and training.

Agency Name: Department of Commerce

Division: Division of State Fire Marshal

Address: 8895 East Main Street Reynoldsburg OH 43068

Contact: David Sauer **Phone:** 614-752-7096

Email: David.Sauer@com.state.oh.us

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?** 3737.881
5. **What statute(s) does the rule implement or amplify?** 3737.881
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 1301:7-9-11 establishes the certification and renewal requirements for certified UST installers and certified course sponsors for the installation, replacement, removal, closure-in-place, out-of-service, 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?**

Persons desiring to become certified as a UST installer must pay a \$150 application fee and a \$25 fee to take the certification exam. The annual renewal fee is \$150. A prospective UST installer may also complete an installer training program; candidates with more experience are not obligated to take this training. Training instructors incur a \$200 fee for the application to conduct training, and have a \$150 annual renewal fee. These costs are likely recouped via tuition fees for the training course.

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 certification of persons desiring to become UST installers and of persons desiring to sponsor an installer training program or an installer continuing education training program.

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. A certification may be revoked pursuant to Chapter 119 of the Ohio Revised Code for a number of reasons, including fraud, misrepresentation, reckless violation of OAC Chapter 1301:7-9, failure to perform his or her duties, or obstruction of a certified UST inspector or an employee of the State Fire Marshal.

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

Yes. An applicant to become a certified UST installer must submit an application form and an application fee. There is a separate, nominal fee to take the installer examination, and an annual certification renewal fee.

Similarly, applicants for sponsoring training programs must submit an application and application fee. An annual renewal fee also applies to approved training programs.

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. An applicant to become a certified UST installer must submit an application form and an application fee. There is a separate, nominal fee to take the installer examination, and an annual certification renewal fee.

Similarly, applicants for sponsoring training programs must submit an application and application fee. An annual renewal fee also applies to approved training programs.

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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? No**

Please indicate the reasons for not providing the information.

The certification of installers is required by ORC 3737.881. The State Fire Marshal developed the training and certification requirements by drawing on the experience and expertise of BUSTR and the State Fire Academy, and did not rely upon outside sources.

- (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**