

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

Agency Name

Division

David Sauer

Contact

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

Agency Mailing Address (Plus Zip)

614-752-7096

Phone

Fax

David.Sauer@com.state.oh.us

Email

1301:7-9-15

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Delegation of authority to inspect UST systems.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **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(A)**5. Statute(s) the rule, as filed, amplifies or implements: **3737.88(A)**

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

Five-year rule revision required pursuant to ORC 106.03.

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 1301:7-9-15 establishes the certification and renewal requirements for

certified UST inspectors and certified course sponsors for the inspection of the installation, replacement, removal, closure-in-place, out-of-service, change-in-service, etc. of UST systems. The rule also provides for the delegation of the authority to issue permits and conduct inspections to local fire agency, should they desire to take on those tasks.

Revisions to the rule increase validity of certification from two to three years, simplify and streamline the license renewal process, and allow private inspectors to assess UST systems for their employers. A number of changes intended to clarify existing text are made as well.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: **5/17/2017**

(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 decrease revenues.

\$750

Extending the validity of a certification from two to three years will, on average, reduce by one-third the number of renewal forms received annually. The renewal forms are accompanied by a \$25 renewal fee. Currently, the State Fire Marshal lists ninety certified UST inspectors in its database. Therefore, revenue will likely be reduced by no more than \$750 per year (30 fewer renewals per year x \$25 per renewal).

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:

Persons desiring to become certified as a UST inspector must pay a \$25 certification exam and any fee charged by the Bureau of Criminal Identification and Investigation for a background check. The annual renewal fee is \$25. A prospective UST installer must also complete an inspector training program, offered by State Fire Marshal. The tuition fee for the training is \$150.

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.

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

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

The rule requires certification of persons desiring to become UST inspectors.

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**

A certification may be revoked pursuant to Chapter 119 of the Ohio Revised Code for a number of reasons, including fraud, misrepresentation, violation of OAC Chapter 1301:7-9, failure to perform his or her duties, conviction of a felony, filing false documents, or failure to attend any required continuing education training.

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

An applicant to become a certified UST installer must submit an application form and an application fee, as well as any fee charged by the Bureau of Criminal Identification for a background check. There is a separate, nominal fee to take the installer examination, and a triennial certification renewal fee.

Upon completion of an inspection, a certified UST inspector is required to submit a completed inspection form to BUSTR.

Page B-1

Rule Number: 1301:7-9-15

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
No	No	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.

This rule may affect any local government entity with a fire department that wishes to apply for authority to issue permits and inspect UST systems. The decision to apply for this delegated authority is voluntary on the part of the local government; there are no mandatory compliance costs.

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.

The costs of compliance are limited to the costs of obtaining and maintaining a certification as a UST inspector.

(a) Personnel Costs

The costs of compliance are limited to the costs of obtaining and maintaining a certification as a UST inspector.

(b) New Equipment or Other Capital Costs

The costs of compliance are limited to the costs of obtaining and maintaining a certification as a UST inspector.

(c) Operating Costs

The costs of compliance are limited to the costs of obtaining and maintaining a certification as a UST inspector.

(d) Any Indirect Central Service Costs

The costs of compliance are limited to the costs of obtaining and maintaining a certification as a UST inspector.

(e) Other Costs

The costs of compliance are limited to the costs of obtaining and maintaining a certification as a UST inspector.

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.

The choice to employ and train a certified UST inspector is discretionary within the local government agency. The local government agency may also establish fees for issuing delegated permits to offset these costs.

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.

Page E-1

Rule Number: 1301:7-9-15

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 ? **Yes**

Please list each contact.

Ohio Township Association

Ohio Petroleum Marketers and Convenience Store Association

Ohio Municipal League

Ohio Fire Chiefs' Association

Ohio Environmental Council

Mid-Ohio Regional Planning Commission

County Engineers Association of Ohio

County Commissioners' Association of Ohio

Ohio Department of Development

Ohio EPA

- (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 3737.88(A). 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**