

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 1301:7-9-15

**Rule Type:** Amendment

**Rule Title/Tagline:** Delegation of authority to inspect UST systems.

**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
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(A)
5. What statute(s) does the rule implement or amplify? 3737.88(A)
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 1301:7-9-15 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 departments, should they desire to take on those tasks.

The only revision to the rule being proposed at this time is a clarification that where a federal statute or regulation is cited within the rule, language is added or revised to clearly indicate that the version of the federal statute or regulation is that which is in effect at the time this administrative rule is adopted. This language occurs at subparagraph (C)(2).

- 8. Does the rule incorporate material by reference? Yes**
- 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.**

The incorporated material consists solely of federal statutes and/or regulations, which are readily available online.

- 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 inspector must pay a \$25 certification exam and any fee charged by the Bureau of Criminal Investigation for a background check. The annual renewal fee is \$25. A prospective UST inspector must also complete installer and inspector training programs, offered by State Fire Marshal. The combined tuition fee for the training is \$300.



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**

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.

- 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**

A prospective UST inspector would be required to pay certain nominal fees in connection with his or her training, examination, and certification renewal.

**IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))**

- 18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No**

- A. How many new regulatory restrictions do you propose adding?**

Not Applicable

- B. How many existing regulatory restrictions do you propose removing?**

Not Applicable



## Rule Summary and Fiscal Analysis

### Part B - Local Governments Questions

**1. Does the rule increase costs for:**

<b>A. Public School Districts</b>	No
<b>B. County Government</b>	No
<b>C. Township Government</b>	Yes
<b>D. City and Village Governments</b>	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.**

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. 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**

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.

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

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

This rule should not have any significant impact on economic development.



## Rule Summary and Fiscal Analysis

### 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 3737.88(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**