

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

Agency Name

Division of State Fire Marshal

Division

David Sauer

Contact

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

Agency Mailing Address (Plus Zip)

614-752-7096

Phone

Fax

1301:7-9-18

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Delivery prohibition for USTs.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

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:

Incorporate new federal requirements into rule.

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:

The United States Environmental Protection Agency has mandated that states promulgate rules in accordance with the federal Energy Policy Act of 2005. Included in the federal requirements is the implementation of a ??delivery

prohibition?? program for certain UST violations. Rule 1301:7-9-18 describes the requirements for prohibiting delivery to underground storage tanks (USTs) that violate BUSTR regulations.

Where permitted under federal guidelines, BUSTR will afford owners and operators the opportunity to correct violations prior to prohibiting delivery of product. For example, USTs that are equipped with release detection, corrosion protection, spill prevention or overfill prevention, but those components are not being properly maintained, will be issued Notice of UST Violation requiring correction of the noted violation. If the violation is not corrected within 60 days, an order will be issued prohibiting delivery. Pursuant to federal guidelines, however, owners and operators who fail to equip their UST systems with release detection, corrosion protection, spill prevention or overfill prevention must be issued an order prohibiting delivery of petroleum and hazardous substances to their USTs. When a red tag is affixed, it will be unlawful for anyone, including delivery drivers, to drop petroleum or hazardous substances into USTs that have been red tagged. Once violations are corrected, BUSTR will remove the red tag.

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:

Not Applicable.

12. 119.032 Rule Review Date:

(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. The delivery prohibition process will be incorporated into the existing enforcement structure of the agency. Federal grant funding for the agency could be jeopardized if the proposed rule is not adopted.

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:

Proposed Rule 18 establishes a method of enforcement when a UST owner or operator is out of compliance with UST regulations. Therefore, there is no direct cost of compliance under this proposed rule. The proposed rule will not cost directly affected persons any money if they maintain their UST systems in compliance with state and federal regulations. Failure to comply with UST

regulations could lead to delivery prohibition which in turn could lead to a drop in business revenue. However, such costs vary widely and cannot be determined with any accuracy or precision at this time.

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?

| | | | |
|----------------------|--------------|---------------|----------------------------|
| (a) School Districts | (b) Counties | (c) Townships | (d) Municipal Corporations |
| Yes | Yes | 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.

Proposed Rule 18 establishes a method of enforcement when a UST owner or operator is out of compliance with UST regulations. Therefore, there is no direct cost of compliance under this proposed rule. The proposed rule will not cost directly affected persons any money if they maintain their UST systems in compliance with state and federal regulations. Failure to comply with UST regulations could lead to delivery prohibition which in turn could lead to a drop in business revenue or having to purchase fuel from other locations. However, such costs vary widely and cannot be determined with any accuracy or precision at this time. In some cases, government entities may face a cost of compliance in the form of having to purchase fuel from another location. Again, specific costs with respect to having to buy fuel from another location vary too widely to determine accurate or precise results.

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.

Proposed Rule 18 establishes a method of enforcement when a UST owner or operator is out of compliance with UST regulations. Therefore, there is no direct cost of compliance under this proposed rule. The proposed rule will not cost directly affected persons any money if they maintain their UST systems in compliance with state and federal regulations. Failure to comply with UST regulations could lead to delivery prohibition which in turn could lead to a drop in business revenue or having to purchase fuel from other locations. However, such costs vary widely and cannot be determined with any accuracy or precision at this time. In some cases, government entities may face a cost of compliance in the form of having to purchase fuel from another location in order to fuel vehicles within their fleets. Again, specific costs with respect to having to buy fuel from another location vary too widely to determine accurate or precise results.

(a) Personnel Costs

See above.

(b) New Equipment or Other Capital Costs

See above.

(c) Operating Costs

See above.

(d) Any Indirect Central Service Costs

See above.

(e) Other Costs

See above.

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 proposed rule will not cost affected persons any money if they maintain their UST systems in compliance with state and federal regulations. These costs of obtaining fuel from another provider 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. Fuel from USTs is readily available at competitive rates from numerous locations throughout the state.

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Rule Number: 1301:7-9-18

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.

See Attachment A.

(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 C.F.R. 280.30 Spill and overfill control, 40 C.F.R. 280.31 Operation and maintenance of corrosion protection, 40 C.F.R. 280.32 Compatibility, 40 C.F.R. 280.33 Repairs allowed, 40 C.F.R. 280.34 Reporting and recordkeeping. Federal Guidelines located at http://www.epa.gov/swerust1/fedlaws/epact_05.htm#grant: Grant Guidelines

to States for Implementing the Secondary Containment Provision of the Energy Policy Act of 2005, Grant Guidelines to States for Implementing the Inspection Provisions of the Energy Policy Act of 2005, Grant Guidelines to States for Implementing the Delivery Prohibition Provision of the Energy Policy Act of 2005.

- (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**

- (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**

Not Applicable

Attachment A

Organizations Consulted

Since January of 2007, the Division of State Fire Marshal, Bureau of Underground Storage Tank Regulations (BUSTR) has held several meetings with stakeholders to discuss proposed changes to the BUSTR regulations. These meetings were open to the public and included representatives from a cross section of the regulated community. All participants were encouraged to participate in the open discussions and to submit written comments on any topic that concerned them. In July of 2009, BUSTR initiated a web based petition process to inform the public of the rule review process and to encourage the public to participate in amending the BUSTR regulations. BUSTR has received over 2,300 petitions requesting changes to the BUSTR regulations. Below is a list of dates when BUSTR held meetings with the public to discuss changes to the BUSTR regulations.

January 30, 2007, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees attached.

March 28, 2007, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees not attached.

April 25, 2007, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees not attached.

October 24, 2007, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees attached.

January 30, 2008, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees attached.

February 25, 2009, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees attached.

May 7, 2009, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees attached.

June 29, 2009, Web Based Petition Period Opens.
https://www.comapps.ohio.gov/sfm/fire_apps/fire/petition/
Copy of web page attached.

July 30, 2009, Meeting at the Ohio Fire Academy.
8895 East Main Street, Reynoldsburg, Ohio 43068
List of attendees attached.

August 19, 2010, Web Based Comment Period Opens.
https://www.comapps.ohio.gov/sfm/fire_apps/fire/petition/
Copy of web page attached.

UST Rule Advisory Board Meeting
January 30, 2007

| | |
|------------------|----------------------------|
| Steven Krichbaum | BUSTRA |
| Pete Chace | BUSTR |
| Lori Stevens | BUSTR |
| Jim LEU | PUSTRICB |
| Jennifer Rhoads | OPMCA |
| TOM STEPHENSON | STEPHENSON OIL CO. |
| Jenn Klem | Ohio Chamber of Commerce |
| John Gordon | Englefield OIL |
| KEN MYERS | OML |
| Levt Scarrett | Ohio Municipal League |
| Milly Stipp | District Petroleum |
| TIM THICKSTUN | PUBLIC |
| Sheryl Knapp | SFM - Testing + Reg. |
| DAVID REEDER | PETRO BOARD |
| BILL MORGAN | COLINS EQUIPMENT CORP |
| OLYDE H. KENCIE | OHIO FIRE CHIEF |
| Karen Reese | FirstEnergy Corp |
| Brian Epperson | Speedway Spectronics |
| Dave Mitchell | Reliable Construction OPCA |
| JIM ROCCO | POSTREC B |
| James Hill | USTRAINING |

BUSTR Underground Storage Tank Rule Meeting, October 24, 2007

| | NAME | ORGANIZATION | TELEPHONE NUMBER | Email |
|----|---------------------------------|---------------------|------------------------------|---------------------------|
| 1 | Steven Krichbaum | BUSTR | 614-752-7921 | skrichb@com.state.oh.us |
| 2 | Paul C Van Horn | Ohio Firms Chiefs | 614-879-8265 | AC252BWH@NETSCAPE.NET |
| 3 | Dave Mitchell | OPMCA | 937-461-2250 | dmitchel@orelco.com |
| 4 | Lori Stevens | BUSTR | 614-282-9356 | |
| 5 | SUE KIST | TIRE | 614-995-0301 | |
| 6 | David Miller | AEP | 614- 552 716.1293 | damilleraep.com |
| 7 | MATT POWELL | AEP | 614.716,3142 | mpowell@aep.com |
| 8 | LEE BECKMAN | BECK SUPPLIERS, INC | 913-426-3051 | leebeckman@checkroll.com |
| 9 | Michelle McKee | Speedway Superfund | 937 863 7034 | mlmcke@ssalle.com |
| 10 | Karin Morrison | " " | 437-943-4995- | KEMORRIS@state.com |
| 11 | Mike Strip | District Petroleum | 449-935-8373 | mikes@lynn.tn.com |
| 12 | John Gordon | Englefield oil | 740.928.8215 | Jgordon@englefieldoil.com |
| 13 | Jennifer Rhoads | OPMCA | 614-792-5212 X3 | jrhoads@opmca.org |
| 14 | Karen Reese | FirstEnergy | 330-384-5948 | kreesek@firstenergy.com |
| 15 | Dave Moore | AEP | 614-716-1293 | |
| 16 | ERUIE DAVIS | COMMERCE | 614-644-7050 | edavis@com.state.oh.us |
| 17 | | | | |
| 18 | Verne Ord | BUSTR | 614-752-7095 | Verne.Ord@com.state.oh.us |
| 19 | BARRY HANCOCKSON | Pets Petroleum | 330 264 1585 | Baery@FuelMaer.com |
| 20 | Stevan Thibault | HAZT/Advanced Fuel | 614-252-8922 | stevan@advfuel.com |

BUSTR Underground Storage Tank Rule Meeting, October 24, 2007

| | NAME | ORGANIZATION | TELEPHONE NUMBER | |
|----|----------------|--------------|------------------|--|
| 21 | Starr Richmond | NST Beard | 752-8963 | BUSTR rule no distribution Email Srichmond@nstrbeard.com |
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BUSTR Underground Storage Tank Rule Meeting, January 30, 2008

| | NAME | ORGANIZATION | TELEPHONE NUMBER | Email |
|----|------------------|------------------------|------------------|-----------------------------|
| 1 | Steven Krichbaum | BUSTR | 614-752-7921 | Sckrichhb@com.state.oh.us |
| 2 | Dave Mithell | OPEN Reliable Busf. | 937-461-2250 | dmitshell@reliou.com |
| 3 | Karen Reese | FirstEnergy | 330-384-5948 | kresk@firstenergy.com |
| 4 | Rusty Aole | Pemolum Systems inc | 330-753-5304 | PERSYS@LEK.NET |
| 5 | Steve Truckstul | Advanced Fuel Systems | 614-252-8422 | stve@advfuel.com |
| 6 | Ed Williams | Beck Sygnalers | 414-416-3051 | ewilliam@beckoj.com |
| 7 | Brey Hanson | Pets Petroleum | 330-264-1885 | Brey@FUELMAAT.COM |
| 8 | Dave Reeder | Pu STRCB | 614-752-8963 | dreeder@petroboard.com |
| 9 | Starr Richmond | Pu STRCB | 614-752-8963 | srichmond@petroboard.com |
| 10 | Tim Aocca | Pu STRCB | (916) 577-5100 | TRoc@SPACEISK.COM |
| 11 | Verne Oredl | BUSTR | (614) 752-7095 | Verne.Oredl@com.state.oh.us |
| 12 | Keith Morris | SSA | 937-863-6995 | Kimorris@ssa.ohio.com |
| 13 | Micella McKee | SSA | 937-863-7034 | MLMcKee@ssa.ohio.com |
| 14 | PAUL C. VAN HOAN | OH FIRE CHIEFS ASSOC | 740-837-0268 | AC252BVD@NETSCAPE.NET |
| 15 | TOM STEPHENSON | STEPHENSON ON CA | 513-863-7080 | TSS50C@AEP.COM |
| 16 | SUE KRST | SOA/TIR | | |
| 17 | Maxt Powell | American Electric Busc | 614-716-3142 | mpowell@dep.com |
| 18 | RAY WIRT | AMERICAN ELECTRIC BUS | 330-438-7763 | ERWIRT@AEP.COM |
| 19 | | | | |
| 20 | | | | |

BUSTR Underground Storage Tank Rule Meeting, February 25, 2009

| | NAME | ORGANIZATION | TELEPHONE NUMBER | Email |
|----|---------------------|-------------------|------------------|----------------------------------|
| 1 | Steven Krichbaum | SEM / BUSTR | 614-752-7921 | skrichb@com.state.oh.us |
| 2 | Doug Darcral | AIC Associates | 216-701-0252 | douglas.darcral@atassociates.com |
| 3 | Mark Richmond | BUSTR | 614-752-8963 | srichmond@petroboard.com |
| 4 | Scott Johnson | 7-Element | 847-608-1136 | Scott.Johnson@7-11.com |
| 5 | Brian Egrason | SSA | 937-863-6514 | bkeppend@ssa4c.com |
| 6 | George Herbert | SEM / BUSTR | | George.Herbert@ghermet.com |
| 7 | Jason Greco | BSAAM | 330-854-5300 | jgreco@bsaam.com |
| 8 | Jeff Myers | BSAAM | 330-815-0940 | jmyers@bsaam.com |
| 9 | Tom Steppenson | Steppenson Oil | 513-863-7080 | tomsteppenson@aol.com |
| 10 | Lei Beckman | Back Suppliers | 419-426-3051 | beckman@backoil.com |
| 11 | Tim Thickerstan | MAST | 614-252-0565 | sticker@ADVUEL.com |
| 12 | Steve Thickerstan | MAST | " | " |
| 13 | Sohn Gannon | Englefeld Oil | 740-928-8215 | sgannon@englefeldoil.com |
| 14 | Jim Rocco | PUSTR | (330) 562-9771 | JRocco@SAEK.RK.COM |
| 15 | Vernie Omd | BUSTR | (614) 752-7095 | Vernie.Omd@com.state.oh.us |
| 16 | Karen Reese | First Energy | (330) 384-5948 | reese@firstenergycorp.com |
| 17 | Bruce H. Hunsberger | Reese's | 330-244-1885 | Bruce.H.Hunsberger@reese.com |
| 18 | Leonard Rowell | Hull & Associates | 614-793-8777 | lrowell@hullinc.com |
| 19 | Bill Moran | Collins Equip | 216-641-4300 | bmoran@collinsequip.com |
| 20 | JENNIFER RHOADS | OPACA | 614-792-5212 | Jrhoads@opaca.org |

BUSTR Underground Storage Tank Rule Meeting, February 25, 2009

| | NAME | ORGANIZATION | TELEPHONE NUMBER | Email |
|----|-------------------|--------------|------------------|------------------|
| 21 | Valentine Egirofa | AER-0770 | 2619-76-2280 | vegirofa@aer.com |
| 22 | RAY WIRE | AEP | 330-438-7763 | ERWIRE@AEP.COM |
| 23 | Sheryl Knapp | SAM | | |
| 24 | James Hill | WST | 330 862 9127 | JDHILL@WST.com |
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BUSTR/Intra-Industry Rules Process & Development Procedures

Meeting Attendance

July 30, 2009

Location: SFM Multi Purpose Room

| Name | Affiliation | Phone # | E-mail |
|-----------------|--------------------|-----------------|--------------------------------|
| Carole Sprague | CTL Engineering | 614-276-8123 | csprague@ctleng.com |
| Krista Keating | SSALCC | 937 843 6995 | klm@ssalcc.com |
| Doug Darrach | ATC Associates | 440-838-7177 | dd@atcassoc.com |
| SARA UNSELL | ERS, Inc. | 419-354-0515 | sunsell@ersinc.net |
| Carol Richards | KV Resources, Inc | 330-849-0618 | carolrichards@kvresources.com |
| Larrie Rasik | Ohio EPA | 614-644-2324 | larrie.rasik@epa.gov |
| Bryan W. Witt | ARCADIS | 614 799 4756 | bryan.witt@arcadis-usa.com |
| Craig Davis | Marathon Petroleum | 419-421-2659 | craigmdavis@marathonllc.com |
| Eric Shaverlee | ARCADIS | 614-799-4727 | eric.shaverlee@arcadis-usa.com |
| Matt Lynda | ARCADIS | 614-799-4734 | matthew.lynda@arcadis-usa.com |
| Brian McPherson | BIAM ENV. | 330-854-5340 | brian@biamenv.com |
| Ed Woollum | EMU VST Insp Serv. | 614-370-1776 | ed@emuvstinsp.com |
| John Goodson | Englefield Oil | 740-928-8315 | jgoodson@englefieldoil.com |
| Robin Roth | Ohio EPA, CDO | 614-728-2446 | robin.roth@epa.state.oh.us |
| Kevin Hodgett | ODOT | 614-466-7925 | kevin.hodgett@dot.state.oh.us |
| George Horn | BUSTR | 614 995 4244 | george.horn@ustr.com |
| Verne Ord | BUSTR | 614 752 7095 | verne.ord@ustr.com |
| Jennifer Rhoads | OPMCA/OTA | 614/792-5212 x3 | jrhoads@opmca.org |



Commerce State Fire Marshal : Document Petition/Comment Form

PETITION/COMMENT INFORMATION

BUSTR

NOTE: You are outside of the BUSTR petition time period. Any petition submitted today will be considered during the next review cycle.

Resources

- BUSTR's Rule Revision/Development Process and Documents (PDF) .. **UPDATED WITH NEW DATES**
- Limited Report on Petitions - Detailed Report On All Submitted Petitions For BUSTR Rules 6, 7, 8, and 18 (PDF) **NEW**
- On-Line Applications**
- BUSTR Petition / Comment Form

CODE ENFORCEMENT

NOTE: The Comment Period for the Ohio Fire Code opened on 4/26/2010 and will close on 10/31/2010.

Resources

- Draft Proposed Ohio Fire Code - including all changes made in the ROP **NEW**
- Ohio Fire Code Rule Revision/Development Process and Documents (PDF) .. **UPDATED**



Department of Commerce

Division of State Fire Marshal

Ted Strickland, Governor
Kimberly A. Zurz, Director

BUSTR Rule Revision/Development Process

The Ohio Department of Commerce, Division of State Fire Marshal, Bureau of Underground Storage Tank Regulations (BUSTR) has begun its mandatory five year rule review for the existing BUSTR administrative rules and is simultaneously drafting new rules to conform to the requirements of the Energy Act of 2005 for three topic areas: (a) owner/operator training, (b) secondary containment, and (c) delivery prohibition. Thus, BUSTR is currently in the process of revising and/or writing four sets of administrative rules:

1. All existing BUSTR administrative rules
2. New administrative rules for owner/operator training
3. New administrative rules for secondary containment
4. New administrative rules for delivery prohibition

Update as of August 2010: To conform to the requirements of the Federal Energy Policy Act of 2005 for secondary containment and delivery prohibition, BUSTR Rules 6, 7, 8 and 18 are being considered separately from the remaining BUSTR rules. All other BUSTR rules, including owner/operator training, will be considered later in the year.

BUSTR values the input of all stakeholders in the regulatory process and encourages your participation in the rule revision/development process.

Generally, the revision/development process involves four steps:

1. **Petition Period** is the period of time when a stakeholder may submit one or more written petitions via the online Petition/Comment form to suggest a revision to an existing, or newly drafted, rule.
 - A compendium of all submitted petitions, along with BUSTR's response to each of them, will be published shortly after the petition period closes. This will be called the "report on petitions" or "ROP."
 - For those who cannot access the online form, the SFM/Code Enforcement Bureau is available to assist.
2. **Comment Period** is the period of time when a stakeholder may submit one or more written comments via the online Petition/Comment form regarding one or more previously submitted petitions.
 - A compendium of all submitted comments, along with BUSTR's response to each of them, will be published shortly after the comment period closes. This will be called the "report on comments" or "ROC."

3. **Ohio's Formal Rule Adoption Process** that involves filing the new draft of the rules with the legislature (referred to as the "final draft" at this point), publishing the final draft in the Register of Ohio, holding a mandatory public hearing, and going through the Joint Committee on Agency Rule Review (JCARR) process for final acceptance.
4. **Publishing and printing** (hard copy and online) of the new and amended BUSTR Rules.

The Principles of the Rule/Development Process

Early in the process, especially where no rule currently exists (e.g., the requirements under The Energy Act of 2005), BUSTR will organize one or more "stakeholder meetings" where the stakeholders, industry representatives, and subject matter experts meet to exchange ideas with the SFM. The purpose of these verbal exchanges is to (a) inform stakeholders about the rule development/revision process, (b) inform stakeholders of what to expect in the initial draft of a future rule, (c) solicit feedback from those present regarding the concepts the SFM presents, and (d) have stakeholders inform the SFM of ideas and concerns, even if they have nothing to do with anything previously presented. At a stakeholder meeting, although there will likely be notes taken, there is generally no exchange or submission of written documents because the focus is on the exchange and explanation of concepts and ideas.

When new (usually Federal) requirements force the development of one or more new rules—such as those required by The Energy Act of 2005—BUSTR produces and distributes an initial draft of each rule (e.g., new administrative rules for owner/operator training and secondary containment) once the bureau is well informed of the ideas, concerns and positions of stakeholders. This initial document then becomes the basis for the subsequent Petition Period, and suggestions for changes to it are submitted to BUSTR through the online Petition/Comment Form.

During the Petition Period, all interested stakeholders may file petitions for proposed BUSTR rule changes. Petitions on any topic may be submitted at any time during the year, but submission prior to the closing date of the Petition Period will provide the stakeholder with the best chance of having the submitted petition considered in the current rule revision cycle. Petitions received after the Petition Period closes will be considered in the next rule revision cycle. After the Petition Period closes, each petition is thoroughly researched, a response is developed (e.g., Report on Petitions or ROP), and a draft of the proposed BUSTR rule (along with the ROP) are recommended to the Department of Commerce for approval. After approval, the ROP is released on the SFM Website, the draft of the proposed BUSTR rule is released to stakeholders, and the Comment Period begins.

During the Comment Period, the Report on Petitions is available for review by any person via the SFM Website, and comments on the petitions may be submitted through the online Petition/Comment Form. After the Comment Period closes, each comment is thoroughly researched, a response is developed (e.g., Report on Comments or ROC), and a final draft of the proposed BUSTR rule (along with the ROC) are recommended to the Department of Commerce for approval. After approval, the ROC is released on the SFM Website and the final draft of the proposed BUSTR rule is submitted to Ohio's formal rules adoption process.

A list of dates relevant to this process can be found below under "Key Timeline/Dates."

About Completing the Online Petition/Comment Form

Where a rule currently exists (e.g., BUSTR administrative rules), petitions for changes to these existing rules may be submitted anytime using the online Petition/Comment Form.

A petition or comment must be submitted electronically, but anyone without access to the online forms may request assistance from BUSTR (see contact info below). The electronic Petition/Comment form has buttons that will assist the user in correctly formatting text in the petition. New (added) text must be underlined (e.g., new words used) and deleted text must be identified by strikeout (e.g., ~~words deleted~~). All petitions and comments must be submitted electronically no later than 5:00 pm on the day of the deadline identified below. The Petition/Comment Form can be accessed by clicking here.

Questions about the rule revision/development process can be directed to BUSTR at:

Division of State Fire Marshal
8895 E. Main Street.
Reynoldsburg, Ohio. 43068

800-686-2878 (Ohio Toll Free) or
614-752-7938
email: webbustr@com.state.oh.us

To receive email notification of updates placed on the BUSTR Website including changes to the Agenda and when submissions and postings have been made please sign up by sending an email to: webbustr@com.state.oh.us.

Instructions for Submitting the Petition/Comment Form:

1. **Please Use Only the Online Petition/Comment Form Provided:**
 - a. Petitions and/or comment submissions on any other form, or in any format, will not be accepted.
 - b. For those who cannot access the online form, SFM/BUSTR is available to assist.
2. **One Petition/Comment Form per Suggested Change/Comment:**
 - a. A single Petition/Comment form must be submitted for each requested change and/or comment. BUSTR can not track multiple comments or requests contained within a single Petition/Comment form.
 - b. The Petition/Comment form must be completed in its entirety in order to be considered in the rule development/revision process.
3. **Please Save a Copy of Your Submitted Petition/Comment**

Key Timeline Dates:

Please note that asterisk (*) denotes items of interest and are addressed below.

- 06/29/09** **Petition Period Opens**
 BUSTR is accepting Petitions on the following:
 1. All existing BUSTR administrative rules
 2. New administrative rules for owner/operator training
 3. New administrative rules for secondary containment
 4. New administrative rules for delivery prohibition
- 07/30/09**** **Meeting of Stakeholders at Ohio Fire Academy (map)**
100pm – 400pm The voluntary meeting will be followed by a voluntary Stakeholder Intra-Industry Meeting***
- 09/18/09** **Petition Period Closes**
- 08/19/10** **BUSTR Publishes Limited ROP on BUSTR Web Site for BUSTR Rules 6, 7, 8 and 18******
- 08/19/10** **Comment Period Opens for BUSTR Rules 6, 7, 8 and 18**
- 09/03/10** **Comment Period Closes for BUSTR Rules 6, 7, 8 and 18**
- TBA** **BUSTR Publishes Limited ROC on the BUSTR Web site for BUSTR Rules 6, 7, 8 and 18**
- TBA** **Ohio's Formal Rule Adoption Process**
 - Draft filed with Legislative Service Commission (LSC)
 - Draft published in the Register of Ohio
 - JCARR process
- TBA** **Rules Accepted, Published and Printed**

* NOTE: In the event that the ROP is published after the date listed, all subsequent timeline dates will be adjusted accordingly.

** In the interest of achieving an improved understanding of the new BUSTR rule revision/writing process and meeting customer needs, a few agenda items from the previously discussed agenda have been adjusted.

*** The intra-industry meeting is intended as an opportunity for stakeholders to discuss amongst themselves potential petitions and/or comments of the BUSTR rules. BUSTR personnel may attend, but will not facilitate the discussion, and will only participate by providing information about BUSTR.

**** To conform to the requirements of the Federal Energy Policy Act of 2005 for secondary containment and delivery prohibition, BUSTR Rules 6, 7, 8 and 18 are being considered separately from the remaining BUSTR rules. All other BUSTR rules, including owner/operator training, will be considered later in the year.