

**MEMORANDUM**

TO: David Sauer, Ohio Department of Commerce, State Fire Marshal, Bureau of Underground Storage Tank Regulations

FROM: Travis Butchello, Regulatory Policy Advocate

DATE: January 12, 2018

RE: **CSI Review – Underground Storage Tank Registration Rule (OAC 1301:7-9-04)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of one amended rule proposed by the Ohio Department of Commerce (Commerce) as part of the statutory five-year rule review requirement. The rule package was submitted to the CSI Office on December 20, 2017 and the public comment period was held open through January 4, 2018. One comment was received during this time.

The rule addresses the registration of underground storage tanks (UST), and this specific provision requires owners of USTs to register any transfer of ownership. Documentation to complete the transfer of ownership is accompanied by a fee and Commerce is amending the rule to increase the fee by \$50 to help support Ohio's UST program. Commerce justifies the fee increase by explaining that the program has been operating at a deficit for the past three years and increasing the fee will allow the program to become financially stable. Commerce states that the purpose of the rule is to provide UST data to the federal program and that the annual registration fee serves, along with federal grants, as the primary funding mechanism for the program.

As part of the early stakeholder outreach process, Commerce sent the amendment language and its reasoning for a fee increase to all registered owners of USTs in the state. In addition, Commerce sent the same email to 30 applicable trade associations who may have an interest in the regulation. Commerce received five responses which all objected to any fee and offered no other suggestions. One commenter suggested that an owner who registers multiple tanks be able to register once rather than completing an application, and thereby paying a fee, for each tank. Commerce chose not to adopt that change because tanks function independently and often contain different products.

One comment was received during the CSI public comment period. The Petroleum Underground Storage Tank Release Compensation Board wrote a letter of support for the rule change.

The rule impacts any owner of a UST including but not limited to owners of gasoline stations, dry cleaners, stand-alone oil change facilities, auto repair shops, manufacturing facilities, and any business that may fuel vehicles on site. The aforementioned entities will be required to submit \$100 for each tank annually and when ownership of a UST is transferred to another entity. In addition, there may be costs in the form of administrative time for compliance, and Commerce approximates that it will take 30 minutes of employee time to fill out the required forms. The BIA emphasizes that the regulatory impact of the rules outweigh any adverse impact because federal grants for the UST program have consistently decreased so the state must find ways to maintain the program. Not only have grants decreased but also this fee has been \$50 since 1999. The fee increase will stabilize Commerce's funding for the program and allow it to continue to fund inspectors for UST sites across Ohio so that the Department can ensure the health and safety of Ohioans through proper maintenance of USTs.

Recommendation

For the reasons explained above, this office does not have any recommendations regarding this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Ohio Department of Commerce should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.