



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: David Sauer, Bureau of Underground Storage Tank Regulations

FROM: Jacob Ritzenthaler, Business Advocate

DATE: May 31, 2022

RE: **CSI Review – Underground Storage Tank Rules (OAC 1301:7-01 through 1301:7-07, 1301:7-10, 1301:7-11, 1301:7-12, 1301:7-13, and 1301:7-15 through 1301:7-20)**

On behalf of Lt. Governor Jon Husted, 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 Bureau as provided for in ORC 107.54.

Analysis

This rule package consists of nine amended rules and eight no change rules proposed by the Ohio Bureau of Underground Storage Tank Regulations (Bureau) as part of the statutory five-year review requirements. This rule package was submitted to the CSI Office on April 19, 2022, and the public comment period was held open through April 29, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on April 19, 2022.

Ohio Administrative Code (OAC) Chapter 1301:7-9 establishes requirements related to underground storage tanks (UST). The amendments being made establish that the various federal statutes and regulations referenced in the rules are the versions in effect at the time the rule becomes effective. OAC 1301:7-9-01 and 1301:7-9-02 set forth applicability and definitions for the chapter regarding various types of USTs. OAC 1301:7-9-03 requires that USTs that contain hazardous substances must report a release or suspected release to the State Fire Marshal and contains a list of applicable hazardous substances. OAC 1301:7-9-04 establishes requirements for registering tanks, which includes annual registration, transferring ownership, and changing product

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held in tanks. OAC 1301:7-9-05 requires owners and operators to maintain financial responsibility for injury or property damage resulting from accidental releases from tanks. OAC 1301:7-9-06 and 1301:7-9-07 set forth requirements for the design, construction, installation, operation, maintenance, and release detection methods of USTs, including performance standards for new and existing systems, standards for UST construction materials, and walkthrough inspections. OAC 1301:7-9-10 and 1301:7-9-11 establish permits for UST systems and UST installer certification and training.

OAC 1301:7-9-12 concerns UST systems that are out-of-service, closed-in-place, permanently removed, or changed-in-service, as well as conducting closure assessments. OAC 1301:7-9-13 describes corrective actions that are to be taken following an accidental release, spill, or overfill, and includes requirements to report the release, mitigate further releases, remove free product, and investigate chemical concentrations. OAC 1301:7-9-15 allows local fire agencies to request delegated authority to inspect UST systems. OAC 1301:7-9-16 and 1301:7-9-17 concern the storage, treatment, and disposal of contaminated soil excavated during corrective action and sampling and analyzing of contaminated soil for disposal. OAC 1301:7-9-18 prohibits introducing regulated substances to a UST that has been classified as ineligible. OAC 1301:7-9-19 and 1301:7-9-20 establish UST operator training and continuing education requirements, as well as procedures for the UST revolving loan fund.

During early stakeholder outreach, the Bureau sent the rules to industry stakeholders for feedback. One comment was received during that time which questioned whether a reference in OAC 1301:7-9-13 was correct. The Bureau examined the reference and advised the stakeholder that the reference was correct. No comments were received during the CSI public comment period.

The business community impacted by these rules includes all owners of USTs, which can include gasoline service stations, dry cleaners, oil change facilities, and manufacturing facilities. The adverse impact created by the rules includes annual fees for registration, obtaining permits before performing significant work on USTs, record maintenance, compliance reporting, and training employees to operate and maintain systems. The Bureau states that annual registration fees cost \$100 per tank. Certification fees for installers and inspectors cost \$150 and permit fees for UST work cost \$35. UST systems must also undergo triennial tightness tests, which cost \$200 per tank. The Bureau also notes that costs to businesses following an accidental release or spills, as well as removing or closing a system can vary based on severity and number of tanks. The Bureau states that the adverse impacts created by the rules are necessary to ensure that the risks of underground storage of potentially hazardous chemicals are mitigated in the interest of public and environmental safety.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Bureau should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review