
Limited
Report on Petitions

Summary of petitions received to
revise the 2005 BUSTR Rules 6, 7, 8 and 18

**Ohio Department of Commerce
Division of State Fire Marshal**

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Further information on the Ohio Department of Commerce can be found at <http://www.com.state.oh.us/>

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Information on the BUSTR Rule Revision/Development Process

The Ohio Department of Commerce, Division of State Fire Marshal (SFM), Bureau of Underground Storage Tank Regulations (BUSTR), is conducting its periodic review of the existing BUSTR Rules (2005). However, to conform to the requirements of the Energy Policy Act of 2005 for secondary containment and delivery prohibition, BUSTR Rules 6, 7, 8 and 18 are being considered separately from, and ahead of, the remaining BUSTR rules.

The Four Steps of the BUSTR Rule Revision/Development Process

We value the input of all stakeholders and encourage the participation of all Ohioans in the rule revision/development process. Generally, this process involves four steps:

1. The Petition Period is when a stakeholder may submit a written petition to revise an existing or newly drafted rule and have the petition to be considered in the current revision cycle.
 - A report of all submitted petitions, along with the BUSTR Rules Work Group response to each of the petitions, will be published after the Petition Period closes. This report is called the “Report on Petitions” or “ROP.”
 - Although petitions for rule changes are accepted by SFM at any time, submissions made during the Petition Period (i.e., before the end of the Petition Period) are assured of being considered in the current revision cycle. Petitions submitted after the end of the Petition Period may not be considered until the next revision cycle.
2. The Comment Period is when a stakeholder may submit one or more written comments regarding one or more previously submitted petitions.
 - A compendium of all submitted comments, along with the BUSTR Rules Work Group response to each of the comments, will be published shortly after the comment period closes. This report is called the “Report on Comments” or “ROC.”
3. Ohio’s Formal Rule Adoption Process involves filing the new draft of the rules with the legislature, publishing those rules on 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 of the 2010 BUSTR Rules (hard copy and on-line versions).

With the publishing of this report (the Report on Petitions or ROP), the Comment Period commences and comments on petitions in the ROP are accepted until the closing of the Comment Period. The Limited Comment Period shall be no less than fourteen days and the specific date the Comment Period ends will be published on the SFM web site at https://www.comapps.ohio.gov/sfm/fire_apps/fire/petition/docs/BUSTRRule.pdf.

Bureau of Underground Storage Tank Regulations (BUSTR)

DOCUMENT PETITION/COMMENT FORM

The Division of State Fire Marshal (SFM) welcomes suggestions for proposed rule changes from all interested parties. Use this form to submit proposed rule changes, and be sure to submit this form by the posted closing date. Visit the SFM web site at <http://www.com.ohio.gov/fire> or call BUSTR at (800) 686-2878 for information concerning closing dates or for information on the rule making process.

This is a: Petition to change new or existing code Comment on proposed code

First Name Middle Name Last Name
 Company/Organization
 Address
 City State Zip Code
 Email Address Phone Number
 Re-type Email Address

Indicate Company/Organization Represented(if any)

1. Ohio Fire Code Section/Paragraph or Table Number/Petition Number

2. Other OFC Sections / Paragraphs or Tables Affected by This

3. Petition/Comment Recommends (check one): New Text Revised Text Deleted Text

4. Petition/Comment (include section/paragraph stated in full, proposed new or revised wording, or identification of wording to be deleted)
Note: Proposed text should be in legislative format, i.e., use underscores to denote wording to be inserted (inserted wording) and strike-through to denote wording to be deleted (~~deleted wording~~)

B I U abc

5. Statement of Problem and Substantiation for Petition/Comment:
(Note: State the problem that would be resolved by your recommendation; give the specific reason/purpose for your Petition/Comment, including copies of tests, research papers, fire experience, etc. If more than 200 words, it may be abstracted for publication.)

B I U abc

The information on this form may constitute a public record and is subject to disclosure in accordance with **R.C. 149.43**

By submitting a request for the inclusion of new or revised text to the Ohio Fire Code as described on this form, the person submitting such text agrees to forever waive all rights in any copyright(s) the submitter may have in any authorship contributions made to the Ohio Fire Code. This waiver includes any petition or comment in its original form as submitted or in any revised form. The submitter acknowledges and accepts that they will have no rights in any publications that use such contributions in the form as submitted or another similar form and certify that such contributions are not protected by the copyright of any other person or entity.

If you wish to provide any additional information/attachments, please email the documents along with your petition ID number to webcode@com.state.oh.us.

Fig. 1 – BUSTR Rules online petition/comment form that can be found and completed at: https://www.comapps.ohio.gov/sfm/fire_apps/fire/petition/FormBUSTR.aspx

The Principles of the Rule/Development Process

On June 30, 2009, BUSTR organized a “stakeholder meeting” where SFM stakeholders, petroleum industry representatives, consultants, and subject matter experts met to exchange ideas with the SFM employees. The purpose of this meeting was to (a) inform stakeholders of the rule development/revision process, (b) inform stakeholders of what to expect in the initial draft of a future rule (initial drafts of rules 6, 7, 18 and 19 were distributed), (c) solicit feedback from those present regarding the concepts presented by the SFM, and (d) have stakeholders inform the SFM of ideas and concerns, even if they have nothing to do with anything previously presented. At this meeting, there was no exchange or submission of written petitions or comment because the focus was on the exchange and explanation of concepts and ideas (although notes were likely taken).

Where requirements of Federal Energy Policy Act of 2005 forced the development of one or more new rules, BUSTR produced and distributed an initial draft of each rule (e.g., BUSTR Rules 6, 7, 18 and 19) once the bureau was well informed of the ideas, concerns and positions of stakeholders. These initial documents then became the basis for the subsequent Petition Period, and suggestions for changes to them were submitted through the online Petition/Comment Form (Fig. 1).

During the Petition Period, all interested stakeholders submitted petitions for proposed rule changes. Petitions for proposed rule changes may be submitted to SFM at any time, but submission prior to the closing date of the Petition Period provides stakeholders with the best chance of having the submitted petition considered in the current rule revision cycle. Petitions received after the Petition Period closes are considered in the next rule revision cycle. The Petition Period for the current revision cycle closed on September 18, 2009. Since that time, each submitted petition is in the process of being thoroughly researched, a response is being developed, a Report on Petitions is being developed (a.k.a., “ROP”), and a draft of the proposed rules (along with the ROP) will be generated. Once completed, all of these items will be recommended to the Department of Commerce for approval. After approval, the ROP will be released on the SFM Website, the draft of the proposed rule will be released to stakeholders, and the Comment Period will begin.

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. Only petitions received prior to the September 18, 2009, deadline will be included and responded to in this Limited Report on Petitions (ROP).

During the Comment Period, the Report on Petitions—in this case, the Limited Report on Petitions—is available for review by any person via the SFM website. Comments on the petitions may be submitted on the Online Petition/Comment Form (Fig. 1). After the Comment Period closes—anticipated to be two weeks for this Limited ROP—each comment will be thoroughly considered, researched and a response will be prepared and included in the Report on Comments (ROC). The ROC and a final draft of the BUSTR Rules will then be recommended to the Department of Commerce for approval. After approval, the ROC will be publically released and the final draft of the proposed rules will be submitted to Ohio’s Formal Rules Adoption process.

Limited Report on Petitions and the Comment Period for Rules 6, 7, 8, and 18 – Now Open

The second phase of the BUSTR Rule Revision/Development Process is currently underway. As a stakeholder, your input into the petitions listed in the Limited ROP is valuable. The following information will assist you in filing a Comment on a petition found within the ROP.

1. When an individual wishes to submit a Comment on a Petition, the individual shall complete a Comment Form regarding that petition. The unique petition number shall be listed on the Comment Form. See Fig. 1 for illustration of web form.
2. The Comment submitted regarding a Petition must be limited to the Petition Number noted on the Comment Form.
3. All Comments will be reviewed by the BUSTR Rules Workgroup and a response to each Comment will be drafted.
4. The Report on Comments of all submitted comments, along with the BUSTR Rules Workgroup response to each of the comments, will be published after the comment period closes.

BUSTR Rule Revision/Development Process Workgroup

The Division of State Fire Marshal's (SFM) BUSTR Rules Workgroup (BUSTR WG) includes the following:

- BUSTR Legal Counsel
- BUSTR Bureau Chief
- BUSTR Bureau Assistant Chief
- BUSTR Environmental Supervisor
- SFM Deputy Division Counsel

For both petitions and comments, after reviewing, researching, and thoughtfully considering each petition, the workgroup makes a recommendation to the State Fire Marshal who authorizes its inclusion in this document.

Ohio BUSTR Rules Workgroup Actions

In the ROP and ROC, the BUSTR WG shall take one of the following actions in response to each petition or comment:

1. Accept – Accept the petition as submitted.
2. Reject – Reject the petition as submitted.
3. Accept in Principle – Accept the petition in principle but with changes in the proposed wording. This action also includes accepting the petition/comment only in part.

The BUSTR WG actions “Reject” and “Accept in Principle” shall include a statement by the BUSTR WG, preferably technical in nature, on the reason for the action. Every attempt in the ROP is taken to make such a statement sufficiently detailed so as to convey the BUSTR WG's

rationale for its action. A petition that does not include all the information required (e.g., all fields in the form) may be rejected by the BUSTR WG for that reason.

If a large number of petitions are received with all the same recommendation and with similar substantiation for the proposal, the BUSTR WG may combine these proposals into a single or several proposals with multiple submitters. In this case, the statement of the problem and the substantiation for the proposal shall be a general summary of the submitted material.

A submitter of a petition or comment may withdraw the petition/comment before the published petition/comment closing date. Proposals/comments cannot be withdrawn after the established proposal/comment closing date.

A number of BUSTR WG responses reference “Federal Guidelines”. The “Federal Guidelines” mean the Grant Guidelines associated with the Federal Energy Policy Act of 2005. Copies of the Grant Guidelines may be found at the following federal web sites:

- Secondary Containment-<http://www.epa.gov/swerust1/fedlaws/secondco.htm>
- Delivery Prohibition-<http://www.epa.gov/swerust1/fedlaws/delvyproh.htm>

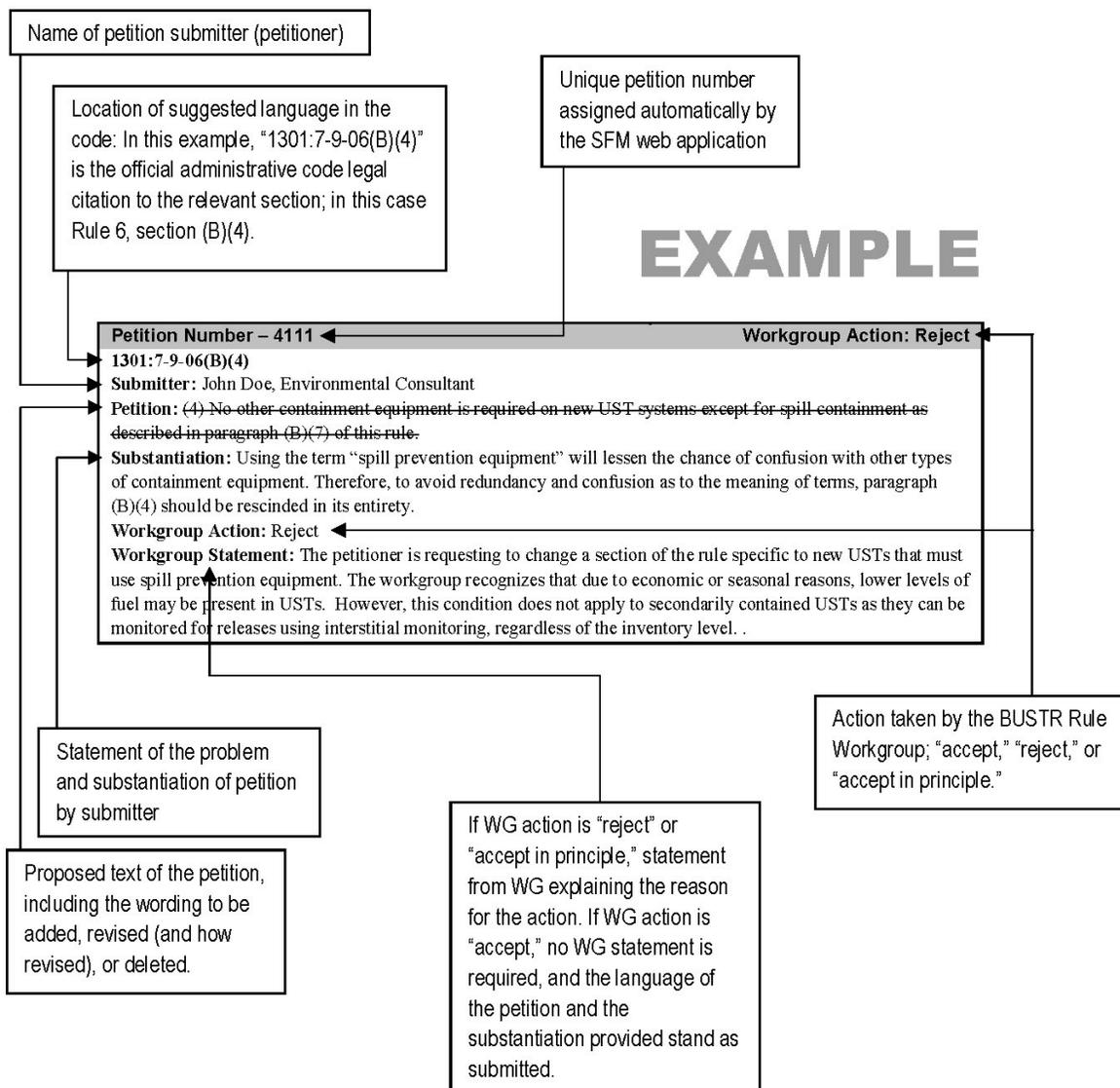
If a petition or comment is submitted with an inaccurate rule number or legal code citation, the BUSTR WG will renumber these petitions in order to correctly cite the exact part of the rule that the petition addresses. The petitions in the ROP are listed in rule number order, thus making it easier for the reader to follow to the rule changes as they appear in the draft rules. Ultimately, the BUSTR WG must conform to Legislative Services Commission Guidelines for rule numbering.

Some non-substantive changes may be made by the BUSTR WG to the proposed rules without petitions (e.g., addressing acronyms, capitalization, verb tense and other minor punctuation issues). These changes are identified in the proposed rules using underline/strikeout edits. The BUSTR WG will accept comments concerning these changes in the event that stakeholders believe that a change is substantive.

Some proposed rule changes may affect other BUSTR rules that are not a part of this Limited ROP. The BUSTR WG will make every effort to minimize these occurrences. The SFM will develop policies to address any interpretations that are needed.

Format of Petitions in the ROP

Petitions in this report are formatted as shown in this illustration:



Where identical petitions were submitted, a table has been included with each petition that, for all duplicates, shows the petition numbers along with the petitioner’s name, company, and location. Note that the substantiations for each of these duplicate petitions were not always exactly identical. If the substantiation for two identical petitions were sufficiently different, they were each considered separate and unique petitions.

Also, in the interest of conveying the full and accurate message and intent of each petitioner, the language of each petition has been reproduced here precisely as it was entered into the petition form.

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RULE 6

Petition Number – 2429 **Workgroup Action: Accept**

1301:7-9-06(A)

Submitter: Division of State Fire Marshal

Petition: (A) For the purpose of prescribing rules pursuant to section 3737.88 of the Revised Code, the state fire marshal hereby adopts this rule to establish design, construction, installation, operation and maintenance requirements for underground storage tanks containing petroleum or other regulated substances. This rule is adopted by the state fire marshal in accordance with Chapter 119. of the Revised Code and shall not be considered a part of the “Ohio Fire Code.” The following UST systems are exempted from this rule:

Substantiation: In all paragraphs of O.A.C. 1301:7-9-06, 1301:7-9-07, and 1301:7-9-18 “state” is inserted before “fire marshal” to avoid confusion between local officials and the state fire marshal.

Workgroup Action: Accept

Petition Number – 1322 **Workgroup Action: Accept**

1301:7-9-06(B)(1)

Submitters:

Petition	LName	FName	Company Name	City	State
139	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
174	Mitchell	David	Reliable Construction Services	Dayton	Ohio
371	Lykins	Jeff	The Lykins Companies	Milford	Ohio
655	Englefield	Ben	Englefield Oil Company	Heath	Ohio
821	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1058	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1171	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1292	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1322	Nye	David	Truenorth	Toledo	Ohio
1416	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (B) – Add new paragraph (B)(1) as follows: (B) Performance standards for new UST systems. (1) New UST systems shall be provided with secondary containment for the UST and underground piping that routinely contains regulated substances to completely contain a release of a regulated substance and prevent a release of a regulated substance to the environment at any time during the operational life of the UST system pursuant to the following requirements:

Substantiation: The remaining portions of OAC 1301:7-9-06 and on OAC 1301:7-9-07 use the term secondary containment rather than double-wall. For clarity, the requirements of this section should be introduced as requirements for secondary containment to be consistent with the terminology in the remainder of OAC 1301:7-9-06 and in OAC 1301:7-9-07. In addition, the wording from paragraph (B)(5) has been moved to this new paragraph.

Workgroup Action: Accept

Petition Number – 1339 **Workgroup Action: Accept**

1301:7-9-06(B)(1)(a)

Submitters:

Petition	LName	FName	Company Name	City	State
140	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
372	Lykins	Jeff	The Lykins Companies	Milford	Ohio
656	Englefield	Ben	Englefield Oil Company	Heath	Ohio
822	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1063	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1180	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1294	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1339	Nye	David	Truenorth	Toledo	Ohio
1419	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (B)(1) – Revise and renumber as follows: ~~(1a) New USTs shall be double-wall and shall have full secondary containment~~ and shall be equipped, operated and maintained pursuant to paragraphs (D)(1) and (D)(2) of this rule;

Substantiation: The deleted section is confusing and suggests that there is something more beyond a double-walled

tank that is required. A double walled tank is fully secondarily contained. If there are additional requirements than they should be fully described. In addition, the proposed changes to the introduction to this paragraph (See proposed revisions for paragraph 1301:7-9-06(B)) should clarify that double-wall is secondary containment.

Workgroup Action: Accept

Petition Number – 657

Workgroup Action: Accept

1301:7-9-06(B)(1)(b)

Submitters:

Petition	LName	FName	Company Name	City	State
149	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
177	Mitchell	David	Reliable Construction Services	Dayton	Ohio
373	Lykins	Jeff	The Lykins Companies	Milford	Ohio
657	Englefield	Ben	Englefield Oil Company	Heath	Ohio
824	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1066	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1187	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1296	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1433	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (B)(2) – Revise and renumber as follows: ~~(2b)~~ Underground piping that routinely contains regulated substances that is part of a new UST system shall be double-wall ~~and shall have full secondary containment~~ and shall be equipped, operated and maintained pursuant to paragraphs (D)(3) and (D)(4) of this rule except that: ~~(ia)~~ Underground piping that conveys petroleum under suction is not required to be equipped to meet the secondary containment requirements of paragraph (B)(~~12~~)(b) of this rule; and ~~(iib)~~ A manifold that conveys petroleum under suction between tanks is not required to be equipped to meet the secondary containment requirements of paragraph (B)(~~12~~)(b) of this rule.

Substantiation: The deleted section is confusing and suggests that there is something more beyond double-walled piping that is required. Double walled piping is fully secondarily contained. If there are additional requirements than they should be fully described. In addition, the proposed changes to the introduction to this paragraph (See proposed revisions for paragraph 1301:7-9-06(B)) should clarify that double-wall is secondary containment.

Workgroup Action: Accept

Petition Number – 658

Workgroup Action: Accept

1301:7-9-06(B)(1)(c)

Submitters:

Petition	LName	FName	Company Name	City	State
32	Rhoads	Jennifer	OPMCA	Dublin	Ohio
179	Mitchell	David	Reliable Construction Services	Dayton	Ohio
374	Lykins	Jeff	The Lykins Companies	Milford	Ohio
658	Englefield	Ben	Englefield Oil Company	Heath	Ohio
826	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1072	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1199	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1298	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1444	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (B)(3) – Revise and renumber as follows: ~~(3c)~~ ~~Containments that are part of a n~~ New UST systems shall be equipped ~~with containments and~~, operated, and maintained pursuant to paragraphs (D)(5) and (D)(6) of this rule and shall be present at the following locations: ~~(ia)~~ In those areas where piping that routinely contains regulated substances exits the UST; ~~(iib)~~ In those areas where piping that routinely contains regulated substances transitions from underground to above ground; ~~(iiie)~~ In those areas where a transition sump is required to maintain the proper slope of piping that routinely contains regulated substances; and ~~(ivd)~~ In those areas under each motor fuel dispenser.

Substantiation: The revised wording of this paragraph is intended to provide consistency with the previous paragraphs 1301:7-06(B)(1) and 1301:7-06(B)(2) and to make it clear that containments are required on new UST systems in the locations specified and that containments are required to be operated and maintained in accordance with the appropriate requirements.

Workgroup Action: Accept

Petition Number – 2408 **Workgroup Action: Accept**

1301:7-9-06(B)(4)

Submitter: Division of State Fire Marshal

Petition: (4) ~~No other containment equipment is required on new UST systems except for spill containment as described in paragraph (B)(7) of this rule.~~

Substantiation: The term “spill prevention equipment” should be used consistently throughout the rule. Using the term “spill prevention equipment” will lessen the chance of confusion with other types of containment equipment. Therefore, to avoid redundancy and confusion as to the meaning of terms, paragraph (B)(4) should be rescinded in its entirety.

Workgroup Action: Accept

Petition Number – 1538 **Workgroup Action: Accept In Principle**

1301:7-9-06(B)(4)

Submitters:

Petition	LName	FName	Company Name	City	State
181	Mitchell	David	Reliable Construction Services	Dayton	Ohio
375	Lykins	Jeff	The Lykins Companies	Milford	Ohio
390	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
659	Englefield	Ben	Englefield Oil Company	Heath	Ohio
828	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1076	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1208	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1300	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1446	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1538	Nye	David	Truenorth	Toledo	Ohio

Petition: (B)(4) – Revise as follows (4) ~~No other containment equipment is required on new UST systems except for spill containment as described in paragraph (B)(7) of this rule.~~

Substantiation: The term “Spill containment” is not defined or used anywhere else in OAC 1301:7-9-06 and in OAC 1301:7-9-07. The term spill prevention equipment is defined and used in these rules and specifically required for new systems in section (B)(7). Use of the term in this paragraph suggests that there is some other requirement beyond spill prevention equipment.

Workgroup Action: Accept In Principle

Workgroup Statement: The purpose of (B)(4) was to inform the public that owner/operators shall only use certain equipment on new USTs and that additional containment equipment is not required. Paragraph (B)(4) was also an effort to distinguish between spill buckets and other types of containment equipment. The term “spill containment” was used in the rule. Types of spill containment equipment are described in the definition of “spill prevention equipment” in Section 1301:7-9-02(B)(57) of the O.A.C. However, the workgroup acknowledges that use of these two different terms may lead to confusion. O.A.C. 1301:7-9-06(B)(1), (D)(1) and (D)(2) provide the same directive as (B)(4). Therefore, to avoid redundancy and confusion as to the meaning of terms, paragraph (B)(4) was rescinded in its entirety by a separate SFM petition, #2408.

Petition Number – 1541 **Workgroup Action: Accept**

1301:7-9-06(B)(5)

Submitters:

Petition	LName	FName	Company Name	City	State
38	Rhoads	Jennifer	OPMCA	Dublin	Ohio
182	Mitchell	David	Reliable Construction Services	Dayton	Ohio
376	Lykins	Jeff	The Lykins Companies	Milford	Ohio
391	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
660	Englefield	Ben	Englefield Oil Company	Heath	Ohio
830	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1085	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1214	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1301	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1455	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1541	Nye	David	Truenorth	Toledo	Ohio

Petition: (B)(5) – Delete and renumber subsequent paragraphs, as appropriate. ~~(5) All secondary containment systems that are part of new UST systems shall be equipped pursuant to the following: (a) Secondary containment systems shall completely contain release of regulated substances from the UST system until they are detected and removed; and (b) Secondary containment systems shall prevent the release of regulated substances into the environment at any time during the operational life of the UST system.~~

Substantiation: See proposed revision for paragraph 1301:7-9-06(B). The content of this section should be moved to the discussion of new UST tank, piping and containment requirements to clarify the double-wall is secondary containment.

Workgroup Action: Accept

Petition Number – 1543

Workgroup Action: Accept

1301:7-9-06(B)(7)

Submitters:

Petition	LName	FName	Company Name	City	State
43	Rhoads	Jennifer	OPMCA	Dublin	Ohio
184	Mitchell	David	Reliable Construction Services	Dayton	Ohio
377	Lykins	Jeff	The Lykins Companies	Milford	Ohio
393	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
661	Englefield	Ben	Englefield Oil Company	Heath	Ohio
833	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1091	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1224	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1304	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1458	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1543	Nye	David	Truenorth	Toledo	Ohio

Petition: (B)(7) – Revise as follows (7) New UST systems shall be equipped with spill prevention equipment and overfill prevention equipment ~~protection~~ pursuant to paragraph (D)(7) of this rule.

Substantiation: To be consistent with the defined term “spill prevention equipment” in OAC1301:7-9-02(B)(57) and the use of these terms in paragraph (D)(7)(a) of this rule.

Workgroup Action: Accept

Petition Number – 2409

Workgroup Action: Accept

1301:7-9-06(C)(1)(b)

Submitter: Division of State Fire Marshal

Petition: (b) The addition of internal lining in the field to an existing metal UST system to meet cathodic protection requirements is prohibited unless owners and/or operators obtain written approval from the state fire marshal prior to the application of the internal lining. The state fire marshal shall no longer grant approval pursuant to this paragraph as of twelve months after the effective date of this rule. The addition of internal lining in the field to UST systems for purposes other than for cathodic protection is allowed provided that owners and/or operators comply with the Ohio Fire Code and give written notice to the state fire marshal prior to the application of the internal lining. Owners and operators shall comply with any conditions imposed by the state fire marshal on the use of internal lining.

Substantiation: It is appropriate to terminate the SFM’s ability to add internal lining to an existing metal UST to meet cathodic protection requirements. Upon a 10 year mandatory follow up inspection, the majority of such liners have failed in some capacity. Consequently, it is reasonable to phase out this type of corrosion protection. Tank owners/operators will require time in which to make necessary preparations. Language should be inserted that indicates the SFM’s ability to approve such applications will not terminate until twelve months after the effective date of this rule. This twelve month expiration provision will balance the needs of owner/operators while addressing the safety issues related to this type of corrosion protection. Although the future use of new lining for cathodic purposes will be phased out, the SFM will preserve the ability to line tanks for compatibility or quality control issues. In addition, existing tanks that are lined will not have to be removed.

Workgroup Action: Accept

Petition Number – 14

Workgroup Action: Accept In Principle

1301:7-9-06(C)(1)(b)

Submitter: Steven Thickstun, Modern American Safety Training, Inc.

Petition: (b) The addition of internal lining in the field to an existing metal UST system to meet cathodic protection

requirements is prohibited ~~unless owners and/or operators obtain written approval from the fire marshal prior to the application of the internal lining.~~ The addition of internal lining in the field to UST systems for purposes other than for cathodic protection is allowed provided that owners and/or operators comply with the Ohio Fire Code and give written notice to the fire marshal prior to the application of the internal lining. Owners and operators shall comply with any conditions imposed by the fire marshal on the use of internal lining.

Substantiation: The addition of lining for purposes of cathodic protection does not take into account the existing degradation of the UST from external corrosion and will not stop or even slow the forces that are corroding the tank from the outside-in.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup acknowledges that it is appropriate to terminate the SFM’s ability to grant approval for an owner/operator to add internal lining to an existing metal UST to meet cathodic protection requirements. Upon a ten year mandatory follow up inspection, the majority of such liners have failed in some capacity. Consequently, it is reasonable to phase out this type of corrosion protection. The workgroup understands, however, that tank owners/operators will require time in which to make necessary preparations. Rescinding the language allowing the granting of the SFM’s approval will not provide owners/operators of an advance notification with ascertainable date on which the approvals will cease. Therefore, pursuant to a separate SFM petition #2409, language was inserted that indicates the SFM’s ability to approve such applications will not terminate until twelve months after the effective date of this rule. This twelve month expiration provision will balance the needs of owner/operators while addressing the safety issues related to this type of corrosion protection. Although the future use of new lining for cathodic purposes will be phased out, the SFM will preserve the ability to line tanks for compatibility or quality control issues. In addition, existing tanks that are lined will not have to be removed.

Petition Number – 1545 **Workgroup Action: Accept**

1301:7-9-06(C)(2)

Submitters:

Petition	LName	FName	Company Name	City	State
45	Rhoads	Jennifer	OPMCA	Dublin	Ohio
187	Mitchell	David	Reliable Construction Services	Dayton	Ohio
378	Lykins	Jeff	The Lykins Companies	Milford	Ohio
395	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
662	Englefield	Ben	Englefield Oil Company	Heath	Ohio
835	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1094	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1231	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1305	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1461	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1545	Nye	David	Truenorth	Toledo	Ohio

Petition: C)(2) – Revise as follows: (2) Existing underground piping that routinely contains regulated substances shall be equipped, operated and maintained pursuant to the new piping requirements defined in paragraph (B)(2) through (B)(2)(b) and paragraphs (D)(3) and (D)(4) of this rule except that:

Substantiation: To be consistent with (C)(1) of this rule, references to the design and operation sections should be added. Also note that proposed changes to paragraph (B)(2) through (B)(2)(b) would result in paragraph number changes.

Workgroup Action: Accept

Petition Number – 1548**Workgroup Action: Accept****1301:7-9-06(C)(4)****Submitters:**

Petition	LName	FName	Company Name	City	State
53	Rhoads	Jennifer	OPMCA	Dublin	Ohio
190	Mitchell	David	Reliable Construction Services	Dayton	Ohio
379	Lykins	Jeff	The Lykins Companies	Milford	Ohio
397	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
663	Englefield	Ben	Englefield Oil Company	Heath	Ohio
837	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1100	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1239	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1307	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1470	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1548	Nye	David	Truenorth	Toledo	Ohio

Petition: (C)(4) – Revise as follows: (4) Existing UST systems shall be equipped with spill prevention equipment and overfill prevention equipment meeting the requirements of paragraph (D)(7) of this rule except that:

Substantiation: To be consistent with the defined term “spill prevention equipment” in OAC1301:7-9-02(B)(57) and the use of these terms in paragraph (D)(7)(a) of this rule.

Workgroup Action: Accept

Petition Number – 1823**Workgroup Action: Accept****1301:7-9-06(C)(4)(b)****Submitters:**

Petition	LName	FName	Company Name	City	State
54	Rhoads	Jennifer	OPMCA	Dublin	Ohio
194	Mitchell	David	Reliable Construction Services	Dayton	Ohio
380	Lykins	Jeff	The Lykins Companies	Milford	Ohio
399	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
664	Englefield	Ben	Englefield Oil Company	Heath	Ohio
838	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1103	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1246	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1308	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1473	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1823	Nye	David	Truenorth	Toledo	Ohio

Petition: (C)(4)(b) – Revise as follows: (b) Existing UST systems installed prior to March 1, 2005, are not required to be equipped with extractor float vent valves as part of overfill prevention as described in paragraph (D)(7)(b) of this rule except USTs undergoing work pursuant to paragraph (C)(7)(a) of this rule.

Substantiation: To be consistent with terminology used in paragraph (D)(7)(b) of this rule.

Workgroup Action: Accept

Petition Number – 1826**Workgroup Action: Accept In Principle****1301:7-9-06(C)(6)(b)****Submitters:**

Petition	LName	FName	Company Name	City	State
55	Rhoads	Jennifer	OPMCA	Dublin	Ohio
381	Lykins	Jeff	The Lykins Companies	Milford	Ohio
382	Lykins	Jeff	The Lykins Companies	Milford	Ohio
401	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
665	Englefield	Ben	Englefield Oil Company	Heath	Ohio
839	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1113	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1256	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio

1311	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1481	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1826	Nye	David	Truenorth	Toledo	Ohio

Petition: (C)(6)(b) – Revise as follows: (b) Existing UST systems that were internally lined but were not equipped with supplemental cathodic protection systems shall be taken out of service by January 1, 2014~~5~~, unless the UST system is modified to meet the cathodic protection requirements of paragraphs (D)(1) through (D)(2)(d)(iv)(b) of this rule,

Substantiation: Owners and operators will need more than one year to remove a UST from service if the UST is to be replaced or modified to add cathodic protection. This short timeframe places an unnecessary burden on the owner and operator for a tank system that is currently in compliance and required to be inspected every 5-years. The 2015 date is proposed on the basis of the five year interval for the lined UST inspection. In reality, the proposed January 1, 2011 date will be less than one year (possible six months) from the effective date of the revised rule.

Workgroup Action: Accept In Principle

Workgroup Statement: Petitioner requests that the date by which existing USTs that were internally lined, but not equipped with supplemental cathodic protection systems be taken out of service to be changed from January 1, 2011 to January 1, 2015. Petitioner’s comments indicate that this rule paragraph applies to all UST systems, not just sensitive areas. However, paragraph (C)(6)(b) applies only to UST systems located in sensitive areas. Pursuant to rule, metal USTs in sensitive areas could only be cathodically protected by using impressed current systems or sacrificial anodes. Lining was not an option, although some permits were erroneously issued. Work group recognizes that a specific date in the rule may cause unnecessary hardship if the rule review process were delayed leading to a short timeframe between the effective date of the rule and January 1, 2011. The workgroup does not accept a deadline of January 1, 2015 as this may allow a significant period of time to pass between the potential effective date of the rule and the deadline. Therefore, by separate petition #2410 the SFM proposed language in paragraph (C)(6)(b) indicating that such systems shall be taken out of service no later than twelve months from the effective date of the rule. Considering this paragraph only applies to USTs in sensitive areas, a twelve month deadline from the effective date of the rule will provide sufficient time for owner/operators to make preparations.

Petition Number – 2410 **Workgroup Action: Accept**

1301:7-9-06(C)(6)(b)

Submitter: Division of State Fire Marshal

Petition: (b) Existing UST systems that were internally lined but were not equipped with supplemental cathodic protection systems shall be taken out of service no later than twelve months after the effective date of this rule, unless the UST system is modified to meet the cathodic protection requirements of paragraphs (D)(1) through (D)(2)(d)(iv)(b) of this rule,

Substantiation: With respect to taking USTs out of service, the SFM recognizes that a specific date in the rule may cause unnecessary hardship if the rule review process were delayed leading to a short timeframe between the effective date of the rule and January 1, 2011. Therefore, paragraph (C)(6)(b) should include language indicating that such systems shall be taken out of service no later than twelve months from the effective date of the rule.

Twelve months is a reasonable amount of time to schedule the installation of cathodic protection considering that it normally takes several months for alternative cathodic protection systems to be installed and demonstrated to be in proper operation. Further, the SFM wanted to consider the availability of contractors to perform the work. Thus, the SFM chose twelve months for the foregoing reasons.

Workgroup Action: Accept

Petition Number – 999 **Workgroup Action: Accept In Principle**

1301:7-9-06(C)(6)(b)

Submitter: Thomas Stephenson, Stephenson Oil Co.

Petition: Existing UST systems that were internally lined but were not equipped with supplemental cathodic protection systems shall be taken out of service by January 1, 2011 within ten years after lining or five years after tank has been internally inspected to determine if it is structurally sound with the lining still performing in accordance with “American Petroleum Institute Publication 1631-01; Interior Lining and Period Inspection of Underground Storage Tanks”, unless the UST system is modified to meet the cathodic protection requirements of paragraphs (D)(1) through (D)(2)(d)(iv)(b) of this rule,

Substantiation: Owners and operators will need more than one year to remove a UST from service if the UST is to be replaced or modified to add cathodic protection. This short timeframe places an unnecessary burden on the owner and operator for a tank system that is currently in compliance and required to be inspected ten years after lining and every 5-years thereafter. The proposed change reflects current Ohio Administrative Code 1301:7-9-06(D)(1) and

1301:7-9-08(C)(5) as tanks have been internally lined with written approval from the State Fire Marshall. In reality, the proposed January 1, 2011 date will be less than one year (possible six months) from the effective date of the revised rule. This is an unfair burden on an owner/operator that has written State Fire Marshal approval to internally line a tank and not be required to re-inspect the tank for ten years. If the tank is currently compliant, it should remain compliant until the next required inspection.

Workgroup Action: Accept In Principle

Workgroup Statement: Petitioner requests that the date by which existing USTs that were internally lined, but not equipped with supplemental cathodic protection systems be taken out of service to be changed. Petitioner's comments indicate that this rule paragraph applies to all UST systems, not just sensitive areas. However, paragraph (C)(6)(b) applies only to UST systems located in sensitive areas. Pursuant to rule, metal USTs in sensitive areas could only be cathodically protected by using impressed current systems or sacrificial anodes. Lining was not an option, although some permits were erroneously issued. Work group recognizes that a specific date to require cathodic protection on existing UST systems in sensitive areas in the rule may cause unnecessary hardship if the rule review process were delayed leading to a short timeframe between the effective date of the rule and January 1, 2011.

The workgroup does not accept the conditions set forth by the petitioner as this may allow a significant period of time to pass between the potential effective date of the rule and the deadline. Therefore, by separate petition #2410, the SFM proposed language in paragraph (C)(6)(b) indicating that such systems shall be taken out of service no later than twelve months from the effective date of the rule. Considering this paragraph only applies to USTs in sensitive areas, a twelve month deadline from the effective date of the rule will provide sufficient time for owner/operators to comply with the regulations.

Petition Number – 1827

Workgroup Action: Accept

1301:7-9-06(C)(6)(d)

Submitters:

Petition	LName	FName	Company Name	City	State
56	Rhoads	Jennifer	OPMCA	Dublin	Ohio
196	Mitchell	David	Reliable Construction Services	Dayton	Ohio
383	Lykins	Jeff	The Lykins Companies	Milford	Ohio
402	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
666	Englefield	Ben	Englefield Oil Company	Heath	Ohio
840	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1118	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1261	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1312	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1485	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1827	Nye	David	Truenorth	Toledo	Ohio

Petition: (C)(6)(d) – Revise as follows: (d) Existing UST systems installed prior to March 1, 2005, are not required to be equipped with extractor float vent valves as part of overfill prevention pursuant to paragraph (D)(7)(b) of this rule;

Substantiation: To be consistent with terminology used in paragraph (D)(7)(b) of this rule

Workgroup Action: Accept

Petition Number – 2411

Workgroup Action: Accept

1301:7-9-06(C)(7)(a)

Submitter: Division of State Fire Marshal

Petition: (a) ~~If work that causes an existing UST to be replaced, moved or shifted from its bedding shall require the UST and all piping, and containments and ancillary equipment associated with the UST to shall be equipped, operated and maintained pursuant to the new UST system secondary containment requirements defined in paragraph (B) of this rule;~~

Substantiation: The SFM recognizes that the language “requires movement or shifting” may be overly broad and will therefore substitute this language with “replace,” thus requiring the replacement of piping when a UST is replaced, not just moved or shifted. This language is more consistent with Federal Guidelines. When a tank owner/operator replaces an existing UST with a new UST and therefore must replace the UST, piping, and containments, it is inherent in the replacement process that all ancillary equipment is also replaced. Therefore, the term “ancillary equipment” is redundant and should be rescinded.

Workgroup Action: Accept

Petition Number – 1998**Workgroup Action: Reject****1301:7-9-06(C)(7)(a)****Submitters:**

Petition	LName	FName	Company Name	City	State
57	Rhoads	Jennifer	OPMCA	Dublin	Ohio
61	Cubberley	Alan	Mac's Convenience Stores DBA Circle K	Akron	Ohio
77	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
163	Morgan	William	Collins Equipment	Cleveland	Ohio
287	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
384	Lykins	Jeff	The Lykins Companies	Milford	Ohio
404	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
667	Englefield	Ben	Englefield Oil Company	Heath	Ohio
841	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1039	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1070	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1120	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1137	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1216	White	James	BP	LaPalma	California
1264	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1315	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1421	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1428	Reese	Karen	FirstEnergyCorp	Akron	Ohio
1489	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1632	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1702	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1762	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1775	Gravius	Jamie	Campbell Oil Company	Massillon	Ohio
1829	Nye	David	Truenorth	Toledo	Ohio
1849	Knott	Denny	Ney Oil Company	Ney	Ohio
1998	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2071	Byler	John	Chagrin Oil and Gas Co	Middlefield	Ohio
2091	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2152	Wise	Raymond	Ravenna Oil Company	Ravenna	Ohio
2250	Santmeyer	Zach	Santmyer Oil Company	Wooster	Ohio

Petition: (a) Work that requires the movement or shifting of ~~cause an existing UST to be moved or shifted~~ from its bedding shall require the UST and ~~all piping, containments and ancillary equipment~~ associated with the UST to be equipped, operated and maintained pursuant to the new UST and ~~system secondary~~ containment requirements defined in paragraph (B) of this rule;

Substantiation: The requirement to replace all piping in accordance with the new UST system requirements when a UST is replaced places a significant burden on the owner/operator by significantly increasing the cost of UST replacement and additional time to complete the work resulting additional loss of business during the UST system replacement. This is particularly true for larger facilities such as a truck stop where there may be hundreds of feet of piping between the UST and the dispenser islands. In many cases, the removal of a UST will not require significant disturbance to the piping beyond the excavation area in order to replace a UST and connect to the existing piping. Further the requirement for a complete UST system replacement will discourage smaller tank owners/operators from making changes to their UST system. The requirement to upgrade the piping should be based on the requirements described in paragraph (C)(7)(b) of this rule. Further the language has been revised to clarify that installation of secondary containment should be based on planned movement or shifting of the tank. In addition, the term ancillary equipment is not used anywhere in the secondary containment requirements for tanks and the only potential ancillary equipment would be a containment which is specifically included by reference to (B)(3)(a).

Workgroup Action: Reject

Workgroup Statement: Replacing a UST and not replacing the piping fails to adequately address safety concerns. BUSTR leak autopsy data indicates that piping is a major source of release. The federal trend is to require secondary containment of new USTs and existing USTs that are replaced. In addition, the federal trend is to require the

replacement of single walled piping with secondarily contained piping. The opportune time to replace dated single walled piping is when the owner/operator is replacing the tank. Federal Guidelines indicate that states may determine the replacement schedule. For purposes of paragraph (a), the workgroup determined that to ensure public safety, if an existing UST is replaced by a new UST then all piping, containments, and ancillary equipment associated with the UST must meet new requirements. Thus, “all piping” cannot be rescinded as requested by the petitioner. The workgroup recognizes that the language “requires movement or shifting” may be overly broad and therefore the SFM submitted a separate petition, #2411, substituting this language with “replace,” thus requiring the replacement of piping when a UST is replaced, not just moved or shifted. When a tank owner/operator replaces an existing UST with a new UST and therefore must replace the UST, piping, and containments, it is inherent in the replacement process that all ancillary equipment is also replaced. Therefore, the workgroup recognizes that the inclusion of the term “ancillary equipment” is redundant and this term is rescinded per SFM petition, #2411. The workgroup declines petitioner’s proposal to insert the word “and” and rescind the terms “system secondary” as this would result in the exclusion of secondary containment requirements for piping, which is contrary to the workgroup’s aforementioned position.

Petition Number – 2412**Workgroup Action: Accept****1301:7-9-06(C)(7)(b)****Submitter:** Division of State Fire Marshal

Petition: (b) ~~Work~~ If piping is installed, replaced, modified, or undergoes major repair that affects more than fifty percent (50%) of an existing piping run measured as the length of the pipe between the connection at the UST and the furthest dispenser or use located associated with the UST connection that routinely contains regulated substances, then shall require the piping and associated containments shall ~~to~~ be equipped, operated and maintained pursuant to the new piping and containment requirements defined in paragraphs (B)(2) and (B)(3) of this rule; and

Substantiation: The intent of the changes is to clarify what activities will cause the installation of secondarily contained piping. The changes identify the specific terms such as installation, replace, modification, and major repair that trigger the need for a permit and ensures the proper review and oversight of the activity performed by certified installers and inspectors (O.A.C. 1301:7-9-10(C)).

“Work” is replaced with more specific language that clarifies what activities are intended by this rule. “Work” was intended to encompass activities performed on a UST system for which a permit is required. Such activities are listed in O.A.C. 1301:7-9-10(C). Therefore, the specific language that replaces “work” is language consistent with the activities listed in O.A.C. 1301:7-9-10(C). The SFM also aims to clarify the measurement of pipe length by using the specific proposed language.

Workgroup Action: Accept**Petition Number – 1831****Workgroup Action: Reject****1301:7-9-06(C)(7)(b)****Submitters:**

Petition	LName	FName	Company Name	City	State
58	Rhoads	Jennifer	OPMCA	Dublin	Ohio
385	Lykins	Jeff	The Lykins Companies	Milford	Ohio
405	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
668	Englefield	Ben	Englefield Oil Company	Heath	Ohio
844	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1148	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1273	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1319	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1499	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1831	Nye	David	Truenorth	Toledo	Ohio
2036	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio

Petition: (C)(7)(b) – Revise as follows: (b) Modification to the piping ~~Work~~ that affects more than fifty percent (50%) of an existing piping run that routinely contains regulated substances measured as the length of the pipe for an individual regulated substance between the connection at the UST and each dispenser or use location associated with that UST connection shall require the piping and associated containments to be equipped, operated and maintained pursuant to the new piping and containment requirements defined in paragraphs (B)(2) and (B)(3) of this rule.; and

Substantiation: The term “piping run” is not defined in these rules and it is important that the determination of 50%

of a piping run be clearly understood as part of this rule development. This change provides a description of a piping run and the length to be used for purposes of determining 50% of an existing piping run. The connection at the UST includes a direct connection to an opening on a tank or a connection to a submerged pumping system. The connection at the dispenser would be to a flex hose or other transition component beneath the underground portion of the piping and the dispenser. A separate piping run would exist for each length of pipe associated with multiple openings on the UST, multiple submerged pumping systems on the UST or a connection to a “T” fitting at a submerged pumping system to direct piping to different areas of a UST site. Also note that changes to the definition of the term “modification” in OAC 1301:7-9-02 (B)(31) have been proposed and are integral to this proposed change. It is also important to note that under paragraphs (G) and (I)(1)(a) the current version of OAC 1301:7-9-12 the removal from service of a piping run would require the old piping to be removed or abandoned in place and a closure assessment to be conducted. Where a single piping run is taken out of service and upgraded to secondary containment at a UST site and multiple piping runs are present in the same trench, the removal of the out of service piping run may not be possible without damaging the remaining pipe in the trench. As a result, the out of service pipe will have to be temporarily abandoned in place until the remaining piping runs in the trench are also taken out of service. As part of the requirement to upgrade to secondarily contained piping we also proposed that where active piping runs occupy the same trench as an old pipe that was upgraded to secondary containment, the old pipe be allowed to be temporarily abandoned in place and the requirement for removal of the piping and conducting of the closure assessment be deferred until all the piping contained in a single piping trench is to be taken out of service. See our proposed revision to OAC 1301:7-9-12. Also note that proposed changes to paragraph (B) would result in changes to these referenced paragraphs.

Workgroup Action: Reject

Workgroup Statement: The workgroup acknowledges that language more specific than “work” would clarify what activities are intended by this rule. The SFM submitted a separate petition, #2412, to replace “work” with more specific language. The language “modification to the piping,” however, cannot be used. “Modification” is already defined in O.A.C. 1301:7-9-10(B)(4) and does not encompass all intended activities, e.g. removal, repair, or replacement activities. “Work” was intended to encompass activities performed on a UST system for which a permit is required. These activities are listed in O.A.C. 1301:7-9-10(C). Therefore, the specific language that replaced “work” will be consistent with O.A.C. 1301:7-9-10(C). The workgroup accepts that the measurement of pipe length warrants clarification. By a separate petition, #2412, the SFM proposed the specific language “the length of the pipe between the connection at the UST and the furthest dispenser or use located associated with the UST connection....”

Petition Number – 1833

Workgroup Action: Accept In Principle

1301:7-9-06(C)(7)(c)

Submitters:

Petition	LName	FName	Company Name	City	State
59	Rhoads	Jennifer	OPMCA	Dublin	Ohio
63	Cubberley	Alan	Mac's Convenience Stores DBA Circle K	Akron	Ohio
83	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
165	Morgan	William	Collins Equipment	Cleveland	Ohio
202	Mitchell	David	Reliable Construction Services	Dayton	Ohio
291	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
386	Lykins	Jeff	The Lykins Companies	Milford	Ohio
406	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
407	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
669	Englefield	Ben	Englefield Oil Company	Heath	Ohio
847	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1040	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1079	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1138	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1164	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1218	White	James	BP	LaPalma	California
1284	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1321	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1425	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio

1452	Yoder	Gregory	Carlisle Quickmart, Inc.	Walnut Creek	Ohio
1510	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1633	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1703	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1764	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1779	Gravius	Jamie	Campbell Oil Company	Massillon	Ohio
1833	Nye	David	Truenorth	Toledo	Ohio
1851	Knott	Denny	Ney Oil Company	Ney	Ohio
2002	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2080	Byler	John	Chagrin Oil and Gas Co	Middlefield	Ohio
2092	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2156	Wise	Raymond	Ravenna Oil Company	Ravenna	Ohio
2222	McPeek	Michael	Par Mar	Marietta	Ohio
2251	Santmeyer	Zach	Santmyer Oil Company	Wooster	Ohio

Petition: (C)(7)(c) – Revise as follows: (c) A fuel dispenser at an existing UST site shall be equipped, operated and maintained pursuant to the new UST system containment requirements defined in paragraph (B)(3)(d) of this rule as follows:

(i) if a new motor fuel dispensing system is installed where there previously was no dispenser;

(ii) if or an existing motor fuel dispenser is replaced with another dispenser at an existing site and work is also performed on the that requires modification to the main piping run, flex connector or shear valve associated with the dispenser; or

, then the fuel dispensing system shall be equipped, operated and maintained pursuant to the new containment requirements defined in paragraph (B)(3) of this rule.

Substantiation: The proposed rule would require that under dispenser containment be installed if a dispenser is replaced at a UST site that results in any work being performed on the piping, flex connector, or shear valve. It is not uncommon for an owner/operator to upgrade a flex hose or replace a shear valve during a dispenser replacement or have to replace a flex hose or shear valve due to damage in an accident. These components can be replaced with little or no disruption to the main piping run or dispenser island. Installation of under dispenser containment is not simply the installation of a containment box under the dispenser. It will require changes to the main piping run as well as the removal of portions of the concrete island and the adjacent concrete pad, excavation to access the underground piping, and changes to the electrical conduits for the dispenser. This is a significant disruption and expense to subject an owner/operator to in order to upgrade a dispenser or replace a damaged dispenser. This would place a significant burden on many marketers and discourage the routine replacement of flex hoses and impact valves when a dispenser is replaced. It would also likely require installation of dispenser containment any time a dispenser was replaced as a result of an accident. In addition, many dispensers will need to be replaced in the coming years in order for owner/operators to comply with the new Payment Card Industry (PCI) security requirements further increasing the already significant burden of having to replace dispensers with the requirements to install under dispenser containment if a shear valve or flex hose is replaced at the time the dispenser is replaced. We are proposing that under dispenser containment be required under two circumstances where work to add a new dispenser or to replace an existing dispenser is likely to result in changes to the island or underground piping. USEPA in their grant guidelines indicates that the dispenser containment is required when the dispenser and the equipment used to connect the dispenser to the underground storage tank system is replaced. USEPA suggests that the equipment used to connect the piping to the dispenser may include an unburied flex hose, impact valve, and other transitional components necessary to connect the dispenser to the main piping run; however, this is left up to the state agency. Under our proposal, we would include modifications to the main piping run between the tank and dispenser island including the transitional fitting on that pipe or work on a dispenser island as the triggers for the requirement for under dispenser containment. Further, if modifications to the underground portion of the piping is required, paragraph (I)(1)(a) of the current version of OAC 1301:7-9-12 would require a closure assessment to be conducted. This essentially could result in a closure assessment being required every time an under dispenser containment is installed. This not only will result in an additional cost to an already costly dispenser replacement, but will significantly increase the burden on BUSTR staff in reviewing a significant number of closure assessments. We also believe that it is important in order to encourage the upgrade to under dispenser containment, and are proposing that as part of the requirement to upgrade to under dispenser containment, the requirement for the closure assessment be deferred until the dispenser island is taken out of service. See our comments on OAC 1301:7-9-12. Also note that proposed changes to paragraph (B) would result in changes to these referenced paragraphs.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup accepts the basis of petitioner’s language in (c) and (c)(i), as it is consistent with the Federal Guidelines. The SFM, by separate petition #2413, proposed the following new language: "(c) If a new motor fuel dispenser is installed where there previously was no fuel dispenser at an existing UST site then a new containment shall be installed pursuant to paragraph (B)(3) of this rule. (d) If an existing motor fuel dispenser is replaced with another dispenser and the piping, flex connector or shear valve is also replaced then a new containment shall be installed pursuant to paragraph (B)(3) of this rule except when the piping, flex connector, or shear valve is being replaced but the existing motor fuel dispenser is not being replaced." However, the workgroup declines petitioner’s (c)(ii) which limits the second circumstance in which under dispenser containments are required to only when the existing fuel dispenser is replaced and modification to the main piping run is performed. Federal Guidelines dictate that when an existing dispenser is replaced and connecting equipment is replaced (flex connections, shear valve, and piping) at the same time, a secondary containment sump must be provided under the new dispensing unit. The Federal Guidelines provide the states with discretion to decide what connecting equipment may be subject to the new UST system containment requirements. The Federal Guidelines provide that flexible connectors or risers or other transitional components may be considered connecting equipment. Connecting equipment includes flex connectors and shear valves. Petitioner’s language rescissions would eliminate this type of connecting equipment and is therefore declined. A fair and reasonable set of circumstances that permits owners/operators to anticipate and budget for compliance should be outlined in the rule. A compromise between the petitioner’s position and the SFM’s concerns regarding safety and compliance with Federal Guidelines is to provide in rule that replacement of both the dispenser and the connecting equipment is the only activity that would trigger the requirement for under dispenser containment. Work such as replacement, major repair or modification, performed solely on the flex connector, shear valve, or piping but not on the dispenser will not trigger the requirements to install under dispenser containment. In addition, working on the dispenser and the connecting equipment as part of a major repair (e.g., repairing a damaged dispenser that caused a release) will not lead to the requirement to install under dispenser containment. This rule paragraph affects closure assessments. However, as the workgroup is not reviewing rule 12 at this time, it will defer comments on rule 12 until such time rule 12 is reviewed.

Petition Number – 2413	Workgroup Action: Accept
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1301:7-9-06(C)(7)(c)

Submitter: Division of State Fire Marshal

Petition: (7) Any work performed on an existing UST system that requires a permit pursuant to rule 1301:7-9-10 of the Administrative Code or as otherwise provided in this paragraph, shall meet the following requirements:

(c) If a new motor fuel dispenser is installed where there previously was no fuel dispenser at an existing UST site then a new containment shall be installed pursuant to paragraph (B)(3) of this rule.(d) If an existing motor fuel dispenser is replaced with another motor fuel dispenser and the piping, flex connector or shear valve is also replaced then a new containment shall be installed pursuant to paragraph (B)(3) of this rule except when the piping, flex connector, or shear valve is being replaced but the existing motor fuel dispenser is not being replaced.

Substantiation: Federal guidelines dictate that when an existing dispenser is replaced and connecting equipment is replaced (flex connections, shear valve, and piping) at the same time, a secondary containment sump must be provided under the new dispensing unit. The Federal Guidelines provide the states with discretion to decide what connecting equipment may be subject to the new UST system containment requirements. The Federal Guidelines provide that flexible connectors or risers or other transitional components may be considered connecting equipment.

Connecting equipment includes flex connectors and shear valves. A fair and reasonable set of circumstances that permits owners/operators to anticipate and budget for compliance should be outlined in the rule. Replacement of both the dispenser and the connecting equipment is the only activity that would trigger the requirement for under dispenser containment. Work such as replacement, major repair or modification, performed solely on the flex connector, shear valve, or piping but not on the dispenser will not trigger the requirements to install under dispenser containment. In addition, working on the dispenser and the connecting equipment as part of a major repair (e.g., repairing a damaged dispenser that caused a release) will not lead to the requirement to install under dispenser containment.

Workgroup Action: Accept

Petition Number – 23	Workgroup Action: Reject
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1301:7-9-06(C)(9)

Submitter: Edsel Woolum, EMW UST Inspection Service

Petition: (9) No underground storage tank shall be permitted to remain in-service after the expiration of the original manufacturer's warranty period unless the original manufacturer inspects the underground storage tank and recertifies it in writing for a specific extended warranty period.

(10) No underground piping routinely containing a regulated product shall be permitted to remain in-service after the

expiration of the original manufacturer's warranty period unless the original manufacturer inspects the underground piping and recertifies it in writing for a specific extended warranty period.

Substantiation: Underground tanks and piping usually only have 20-year warranties and should not remain in service without additional reassurance from the manufacturer that they are still in good condition and suitable for continued service. Some specific piping types have been discontinued by the manufacturer due to deterioration and incompatibility and have not yet been replaced by the owners.

Workgroup Action: Reject

Workgroup Statement: UST systems and piping fail for numerous reasons, not solely due to age. Although petitioner indicates that older storage tanks and piping only had 20 year warranties, new tanks and piping also do not have warranties that exceed 10 or 20 years. Petitioner does not supply evidence of any data regarding age related failures. The workgroup understands the petitioner's concern, but a prohibition against all USTs and piping in service more beyond their warranties, would not be appropriate at this time as it is cost prohibitive. Further, the petitioner does not provide for any mechanism should the original manufacturer not be available or willing to engage in a recertification processes.

Petition Number – 15

Workgroup Action: Reject

1301:7-9-06(C)(9)

Submitter: Steven Thickstun, Modern American Safety Training, Inc.

Petition: (9) No single-wall underground storage tank that has been installed for 40 or more years shall be permitted to continue in service.

Substantiation: Most storage tanks of that age had only 10 to 20 year warranties. Cathodic protection was not required on those tanks until after 1990 so most of them spent their entire warranty period corroding without protection. No one has seen these tanks for 40 or more years and their condition cannot be accurately determined. Steel underground tanks are also subject to "stress-corrosion cracking" due to the changing expansion characteristics of different and more modern fuel types. Fiberglass single-wall tanks of that period frequently exhibit degradation of their resins and delamination due to stresses caused by fuel type changes. Since 1989 the body of experience has been that these tanks are most vulnerable to catastrophic failure due to degradation.

Workgroup Action: Reject

Workgroup Statement: UST systems fail for numerous reasons, not solely due to the age of the tank. For example, BUSTR leak autopsy data indicates that piping is a major source of release. Although petitioner indicates that older storage tanks only had 10 or 20 year warranties, new tanks also do not have warranties that exceed 10 or 20 years. Petitioner does not supply evidence of any data regarding age related failures. The workgroup understands the petitioner's concern, but a prohibition against all USTs in service more than 40 years, would not be appropriate at this time and would be cost prohibitive.

Petition Number – 2434

Workgroup Action: Accept

1301:7-9-06(D)(1)(b)(ii)(a)

Submitter: Division of State Fire Marshal

Petition: (a) "Underwriters Laboratories Standard 1746-93 2007; External Corrosion Protection Systems for Steel Underground Storage Tanks";

Substantiation: The latest standards are referenced in the regulations in order to ensure that work is performed pursuant to the most recent accepted practices. The latest standards address better construction practices, better safety procedures, and the proper protocols to follow for new technology.

Workgroup Action: Accept

Petition Number – 2435

Workgroup Action: Accept

1301:7-9-06(D)(1)(c)

Submitter: Division of State Fire Marshal

Petition: (c) The tank is constructed of a steel-fiberglass-reinforced-plastic composite in compliance with "Underwriters Laboratories Standard 1746-93 2007; Corrosion Protection Systems for Underground Storage Tanks" or "Steel Tank Institute STI-F894; Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks" and related Steel Tank Institute specifications.

Substantiation: The latest standards are referenced in the regulations in order to ensure that work is performed pursuant to the most recent accepted practices. The latest standards address better construction practices, better safety procedures, and the proper protocols to follow for new technology.

Workgroup Action: Accept

Petition Number – 16

Workgroup Action: Reject

1301:7-9-06(D)(1)(d)

Submitter: Steven Thickstun, Modern American Safety Training, Inc.

Petition: (d) The addition of internal lining in the field to a metal UST system to meet cathodic protection requirements is prohibited unless owners and/or operators obtain written approval from the fire marshal prior to the application of the internal lining. The addition of internal lining in the field to UST systems for purposes other than for cathodic protection is allowed provided that owners and/or operators comply with the Ohio Fire Code and give written notice to the fire marshal prior to the application of the internal lining. Owners and/or operators shall comply with any conditions imposed by the fire marshal on the use of internal lining.

Substantiation: The addition of lining for purposes of cathodic protection does not take into account the existing degradation of the tank from external corrosion and the corrosion will not stop of even slow dur to the lining.

Workgroup Action: Reject

Workgroup Statement: This language is duplicative and already provided in OAC 1301:7-9-06 (C)(1)(b). The SFM submitted a separate petition, #2414, rescinding the duplicative language in 1301:7-9-06 (D)(1)(d). Further, it is appropriate to terminate the SFM’s ability to add internal lining to an existing metal UST to meet cathodic protection requirements. The workgroup recognizes that upon a ten year mandatory follow up inspection, the majority of such liners have failed in some capacity. Consequently, it is reasonable to phase out this type of corrosion protection. The workgroup acknowledges, however, that tank owners/operators will require time in which to make necessary preparations. Therefore, the SFM’s ability to approve such applications will not terminate until twelve months after the effective date of this rule. This twelve month expiration provision will balance the needs of owner/operators while addressing the safety issues related to this type of corrosion protection.

Petition Number – 2414

Workgroup Action: Accept

1301:7-9-06(D)(1)(d)

Submitter: Division of State Fire Marshal

Petition: (d) The addition of internal lining in the field to a metal UST system to meet cathodic protection requirements is prohibited unless owners and/or operators obtain written approval from the fire marshal prior to the application of the internal lining. The addition of internal lining in the field to UST systems for purposes other than for cathodic protection is allowed provided that owners and/or operators comply with the Ohio Fire Code and give written notice to the fire marshal prior to the application of the internal lining. Owners and/or operators shall comply with any conditions imposed by the fire marshal on the use of internal lining.

Substantiation: This language is duplicative and already provided in OAC 1301:7-9-06 (C)(1)(b). Therefore, this language in (D)(1)(d) is rescinded.

Workgroup Action: Accept

Petition Number – 1834

Workgroup Action: Accept

1301:7-9-06(D)(2)(d)(i)

Submitters:

Petition	LName	FName	Company Name	City	State
60	Rhoads	Jennifer	OPMCA	Dublin	Ohio
206	Mitchell	David	Reliable Construction Services	Dayton	Ohio
387	Lykins	Jeff	The Lykins Companies	Milford	Ohio
409	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
670	Englefield	Ben	Englefield Oil Company	Heath	Ohio
848	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1175	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1291	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1324	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1517	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1834	Nye	David	Truenorth	Toledo	Ohio
2041	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio

Petition: (D)(2)(d)(i) – Revise as follows: (i) All corrosion protection systems shall be operated and maintained to continuously provide corrosion protection to metal components of those portions of the tank and piping that routinely contain regulated substances and are in contact with the ground or frequently submerged in water.

Substantiation: By definition, a UST is always in contact with ground and corrosion protection for the UST is specifically isolated from the corrosion protection for the piping; therefore references to contact with the ground or

submerged in water and metal components with respect to the UST are in appropriate. Further, as this paragraph is intended to refer to corrosion protection for both UST and piping (i.e., paragraph (D)(4)(c) references this paragraph), it should be generic in its requirements. This paragraph deals with operation and maintenance of corrosion protection and references to the specific requirements for corrosion protection are provided in paragraphs (D)(1) and (D)(3) for UST and piping, respectively. This paragraph should refer to general operation and maintenance of the corrosion protection system as its title indicates. It may be more appropriate to move paragraph (D)(2)(d) and possibly (D)(2)(e) and (D)(2)(f) to a new paragraph under paragraph (D)(9).

Workgroup Action: Accept

Petition Number – 17

Workgroup Action: Accept

1301:7-9-06(D)(2)(e)(i)(b)

Submitter: Steven Thickstun, Modern American Safety Training, Inc.

Petition: (b) A modification permit shall be obtained prior to performing work in accordance with paragraph (D)(2)(~~d~~)(~~e~~) e)(i) of this rule; and (c) Video camera inspections shall not be used to meet the requirements of paragraph (D)(2)(~~d~~)(~~e~~) e)(i) of this rule.

Substantiation: Corrects referenced section

Workgroup Action: Accept

Petition Number – 2415

Workgroup Action: Accept

1301:7-9-06(D)(3)

Submitter: Division of State Fire Marshal

Petition: (D)(3) Piping that routinely contains regulated substances shall be designed and constructed pursuant to the following:

(a) Piping in contact with the ground or ~~frequently~~ submerged in water shall be protected from corrosion in one of the following manners:

Substantiation: Metallic underground piping and flex connectors that routinely contains regulated substance must have corrosion protection. Metal piping and/or flex connectors submerged in water is the same as being in contact with the ground. Further, any pipe or flex connector that is in contact with the ground or water must be protected at the time it makes such contact no matter how brief. Also, this prohibition is necessary to be consistent with state and federal law which requires corrosion protection at all times. Therefore, “frequently” is rescinded.

Workgroup Action: Accept

Petition Number – 1835

Workgroup Action: Reject

1301:7-9-06(D)(3)(a)

Submitters:

Petition	LName	FName	Company Name	City	State
62	Rhoads	Jennifer	OPMCA	Dublin	Ohio
388	Lykins	Jeff	The Lykins Companies	Milford	Ohio
411	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
671	Englefield	Ben	Englefield Oil Company	Heath	Ohio
849	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1268	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1297	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1325	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1524	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1835	Nye	David	Truenorth	Toledo	Ohio
2056	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
2219	Reese	Karen	FirstEnergy Corp	Akron	Ohio

Petition: (D)(3)(a) – Revise as follows: (a) Piping and flex connectors not within containments operated and maintained pursuant to paragraphs (D)(5) and (D)(6) of this rule in contact with the ground or ~~frequently~~ submerged in water more than six months annually shall be protected from corrosion in one of the following manners:

Substantiation: The phrase “frequently submerged in water” is subjective and has enforcement nightmare written all over it. How is frequently to be defined (e.g., one day a month, 50 days a year)? How will this determination be made? There are two issues here. First, piping and flex connectors in a containment operated and maintained pursuant to paragraphs (D)(5) and (D)(6) of this proposed rule should be specifically excluded from the requirements for cathodic protection. If water were to be present in a containment, it typically would be a result of surface water infiltration and limited in volume and duration in the containment. Further, the containment is designed to contain a

release from any of the piping or components within the containment. Second, if submersion in water for underground piping or flex connectors is seasonal and the piping is accessible and visible (i.e., not in submerged in water) and can be inspected on an annual basis pursuant to paragraph (D)(4)(b) of this rule, corrosion protection should not be required. Six months was selected considering potential increases in surface water and groundwater during spring and fall rain and/or snow melt. Finally, flex connectors was added to this paragraph to include that component with the discussion of corrosion protection for piping rather than as a “metal component” associated with the tank as was proposed in paragraph (D)(2)(d)(i) of this proposed rule.

Workgroup Action: Reject

Workgroup Statement: Metallic underground piping and flex connectors that routinely contains regulated substance must have corrosion protection. Metal piping and/or flex connectors submerged in water is the same as being in contact with the ground. Further, any pipe or flex connector that is in contact with the ground or water must be protected at the time it makes such contact no matter how brief. Also, this prohibition is necessary to be consistent with state and federal law which requires corrosion protection at all times. Therefore, a six month water submersion “ceiling” is overly broad and inconsistent with state and federal law. However, the workgroup accepts that “frequently” warrants rescission and the SFM submitted a separate petition, #2415 rescinding the word.

Petition Number – 2436

Workgroup Action: Accept

1301:7-9-06(D)(3)(a)(ii)

Submitter: Division of State Fire Marshal

Petition: (ii) The piping is constructed of metal in compliance with "National Fire Protection Association Standard 30-03 2008; Flammable and Combustible Liquids Code" and "American National Standards Institute B31.3-02; American National Standard Code for Pressure Piping", coated with a suitable dielectric material and cathodically protected using:

Substantiation: The latest standards are referenced in the regulations in order to ensure that work is performed pursuant to the most recent accepted practices. The latest standards address better construction practices, better safety procedures, and the proper protocols to follow for new technology.

Workgroup Action: Accept

Petition Number – 1303

Workgroup Action: Accept

1301:7-9-06(D)(4)(c)

Submitters:

Petition	LName	FName	Company Name	City	State
65	Rhoads	Jennifer	OPMCA	Dublin	Ohio
210	Mitchell	David	Reliable Construction Services	Dayton	Ohio
389	Lykins	Jeff	The Lykins Companies	Milford	Ohio
413	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
672	Englefield	Ben	Englefield Oil Company	Heath	Ohio
853	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1272	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1303	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1328	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1529	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1837	Nye	David	Truenorth	Toledo	Ohio
2060	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio

Petition: (D)(4)(c) - Revise as follows: (c) All corrosion protection systems for piping shall be operated and maintained to continuously provide corrosion protection to the metal components of those portion of the piping that routinely contain regulated substances and are in contact with the ground or frequently submerged in water pursuant to paragraphs (D)(2)(d) through (D)(2)(d)(vi) of this rule.

Substantiation: This paragraph deals with operation and maintenance of corrosion protection for piping. References to the specific requirements for corrosion protection for piping are provided in paragraph (D)(3). This paragraph should refer to general operation and maintenance of the corrosion protection system and not restate the requirements for corrosion protection.

Workgroup Action: Accept

Petition Number – 1838**Workgroup Action: Accept****1301:7-9-06(D)(6)(b)****Submitters:**

Petition	LName	FName	Company Name	City	State
68	Rhoads	Jennifer	OPMCA	Dublin	Ohio
214	Mitchell	David	Reliable Construction Services	Dayton	Ohio
392	Lykins	Jeff	The Lykins Companies	Milford	Ohio
414	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
673	Englefield	Ben	Englefield Oil Company	Heath	Ohio
855	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
858	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1274	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1306	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1329	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1533	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1838	Nye	David	Truenorth	Toledo	Ohio

Petition: (D)(6)(b) – Revise as follows: (b) Containment systems shall be tightness tested pursuant to paragraphs (E)(3)(c) and (F)(3)(a) of rule 1301:7-9-07 of the Administrative Code.

Substantiation: Correct references to the BUSTR proposed revised OAC 1301:7-9-07 and include references for both existing containments and new containments.

Workgroup Action: Accept

Petition Number – 1840**Workgroup Action: Accept****1301:7-9-06(D)(7)****Submitters:**

Petition	LName	FName	Company Name	City	State
71	Rhoads	Jennifer	OPMCA	Dublin	Ohio
218	Mitchell	David	Reliable Construction Services	Dayton	Ohio
394	Lykins	Jeff	The Lykins Companies	Milford	Ohio
416	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
674	Englefield	Ben	Englefield Oil Company	Heath	Ohio
859	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1278	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1314	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1331	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1539	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1840	Nye	David	Truenorth	Toledo	Ohio

Petition: (D)(7) – Revise as follows: (7) Spill prevention equipment and overfill prevention equipment shall be designed and constructed pursuant to all of the following:

(a) To prevent spilling and overfilling associated with regulated substance transfer to the UST system, owners and/or operators shall install the following spill prevention equipment and overfill prevention equipment:

Substantiation: To be consistent with the defined term “spill prevention equipment” in OAC1301:7-9-02(B)(57) and the use of these terms in paragraphs (D)(7)(a) of this rule.

Workgroup Action: Accept

Petition Number – 1842**Workgroup Action: Accept****1301:7-9-06(D)(8)****Submitters:**

Petition	LName	FName	Company Name	City	State
74	Rhoads	Jennifer	OPMCA	Dublin	Ohio
396	Lykins	Jeff	The Lykins Companies	Milford	Ohio
418	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
675	Englefield	Ben	Englefield Oil Company	Heath	Ohio
861	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1280	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1320	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio

1333	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1542	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1842	Nye	David	Truenorth	Toledo	Ohio

Petition: (D)(8) – Revise as follows: (8) Spill prevention equipment and overfill prevention equipment shall be properly operated and maintained pursuant to all of the following:

Substantiation: To be consistent with the defined term “spill prevention equipment” in OAC1301:7-9-02(B)(57) and the use of these terms in paragraphs (D)(7)(a) of this rule.

Workgroup Action: Accept

Petition Number – 1843 **Workgroup Action: Accept**

1301:7-9-06(D)(8)(d)

Submitters:

Petition	LName	FName	Company Name	City	State
76	Rhoads	Jennifer	OPMCA	Dublin	Ohio
219	Mitchell	David	Reliable Construction Services	Dayton	Ohio
398	Lykins	Jeff	The Lykins Companies	Milford	Ohio
419	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
676	Englefield	Ben	Englefield Oil Company	Heath	Ohio
863	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1281	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1326	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1335	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1547	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1843	Nye	David	Truenorth	Toledo	Ohio

Petition: (D)(8)(d) – Revise as follows: (d) Owners and operators shall inspect all spill prevention equipment and overfill prevention equipment annually for proper operation and evidence of deterioration.

Substantiation: To be consistent with the defined term “spill prevention equipment” in OAC1301:7-9-02(B)(57) and the use of these terms in paragraphs (D)(7)(a) of this rule.

Workgroup Action: Accept

Petition Number – 1845 **Workgroup Action: Reject**

1301:7-9-06(E)(1)

Submitters:

Petition	LName	FName	Company Name	City	State
80	Rhoads	Jennifer	OPMCA	Dublin	Ohio
220	Mitchell	David	Reliable Construction Services	Dayton	Ohio
400	Lykins	Jeff	The Lykins Companies	Milford	Ohio
421	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
677	Englefield	Ben	Englefield Oil Company	Heath	Ohio
865	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1282	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1330	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1336	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1551	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1845	Nye	David	Truenorth	Toledo	Ohio

Petition: (E)(1) – Revise as follows: (1) All UST systems shall be properly installed, modified and repaired in accordance with the manufacturer's instructions, Petroleum Equipment Institute Publication RP100-2000; "Recommended Practices for Installation of Underground Liquid Storage Systems", American Petroleum Institute Publication 1615-01; "Installation of Underground Petroleum Storage Systems", ~~National Fire Protection Association Publication NFPA 30-03~~ the Ohio Fire Code Chapter 34 "Flammable and Combustible Liquids Code", ~~National Fire Protection Association Publication NFPA 30A-03~~ the Ohio Fire Code Chapter 22 "Motor Fuel Dispensing Facilities and Repair Garages", ~~National Fire Protection Association Publication NFPA 407-01~~ the Ohio Fire Code Chapter 11 Section 1106 "Standard for Aircraft Fueling Servicing", and applicable Steel Tank Institute installation instructions. Where there is a conflict between requirements the more protective requirement shall prevail.

Substantiation: light of the fact that the Ohio Fire code is based on the International Fire Code, references to the NFPA publications could result in conflicts between the fire code and UST requirements. It would seem that

references to the Ohio Fire code are more appropriate. The Ohio Fire Code, in turn, contains appropriate references to the NFPA publications.

Workgroup Action: Reject

Workgroup Statement: Referring directly to the applicable NFPA standard is more appropriate than referring directly to the Ohio Fire Code. Pursuant to R.C. 3741.14(A), the Ohio Fire Code is statutorily mandated to refer to the NFPA 30A-1990 with respect to filling stations offering self-service. For other purposes, the Ohio Fire Code may only refer to an NFPA standard that does not completely set forth the BUSTR standard, or the Ohio Fire Code may only refer to particular NFPA sections within a standard as a supplement. Therefore, for BUSTR’s purposes, a reference to the Ohio Fire Code may refer to the unintended version of the NFPA or be under inclusive. Finally, if, for any reason there is a conflict between the NFPA that is referenced in a BUSTR rule and the Ohio Fire Code, the BUSTR rule shall apply pursuant to O.A.C. 1301:7-7-01(B)(10) (102.10). Therefore, it is rational for the rule to directly refer to the NFPA and rejects this petition for the foregoing reasons.

Petition Number – 2437

Workgroup Action: Accept

1301:7-9-06(E)(1)

Submitter: Division of State Fire Marshal

Petition: (1) All UST systems shall be properly installed, modified and repaired in accordance with the manufacturer's instructions, Petroleum Equipment Institute Publication RP100-~~2000~~ 2005; "Recommended Practices for Installation of Underground Liquid Storage Systems", American Petroleum Institute Publication 1615-01; "Installation of Underground Petroleum Storage Systems", National Fire Protection Association Publication NFPA 30-~~03~~ 2008 "Flammable and Combustible Liquids Code", National Fire Protection Association Publication NFPA 30A-~~03~~ 2008 "Motor Fuel Dispensing Facilities and Repair Garages", National Fire Protection Association Publication NFPA 407-01 "Standard for Aircraft Fuel Servicing", and applicable Steel Tank Institute installation instructions. Where there is a conflict between requirements the more protective requirement shall prevail.

Substantiation: The latest standards are referenced in the regulations in order to ensure that work is performed pursuant to the most recent accepted practices. The latest standards address better construction practices, better safety procedures, and the proper protocols to follow for new technology.

Workgroup Action: Accept

RULE 7

Petition Number – 2430

Workgroup Action: Accept

1301:7-9-07(A)

Submitter: Division of State Fire Marshal

Petition: (A) Purpose and scope.

For the purpose of prescribing rules pursuant to section 3737.88 of the Revised Code, the state fire marshal hereby adopts this rule to establish release detection requirements and methods for underground storage tanks containing petroleum or other regulated substances. This rule is adopted by the state fire marshal in compliance with Chapter 119. of the Revised Code and shall not be considered a part of the “Ohio Fire Code.” The following UST systems are exempt from this rule:....

Substantiation:

In all paragraphs of O.A.C. 1301:7-9-06, 1301:7-9-07, and 1301:7-9-18 “state” is inserted before “fire marshal” to avoid confusion between local officials and the state fire marshal.

Workgroup Action: Accept

Petition Number – 1516

Workgroup Action: Reject

1301:7-9-07(A)(6)

Submitter: Karen Reese, FirstEnergyCorp

Petition: (6) UST systems that store fuel solely for use by emergency power generators installed prior to the effective date of this rule.

Substantiation: This is implied elsewhere in Rule 7 and for clarity should be included with the list of UST systems exempt from this rule.

Workgroup Action: Reject

Workgroup Statement: Petitioner proposes the following language in paragraph (A)(6) that would exempt from the rule 7 requirements: “UST systems that store fuel solely for use by emergency power generators installed prior to the effective date of this rule.” Federal Guidelines provide that “new or replaced underground tanks and piping used for

emergency power generation” must meet the requirements for secondary containment. In accordance with the Federal Guidelines, SFM proposed language in the draft rule, paragraph (C)(6), which provides “[e]xisting UST systems that store fuel for use by emergency power generators are not required to be equipped with release detection pursuant to paragraphs (B)(1) through (B)(3) of this rule unless the UST systems undergoes work pursuant to paragraph (C)(7) of rule 1301:7-9-06 of the Administrative Code.” Therefore, the petition is rejected because an exemption, to the extent permissible by the Federal Guidelines, is provided in (C)(6), another paragraph of this rule.

Petition Number – 2416 **Workgroup Action: Accept**

1301:7-9-07(B)(1)

Submitter: Division of State Fire Marshal

Petition: (1) New USTs shall be equipped and monitored for releases at least every thirty days using interstitial monitoring pursuant to paragraph (D)(1)(d) of this rule.

Substantiation: Interstitial monitoring may occur more frequently than “every thirty days.” Therefore, “at least” is inserted before “every thirty days,” restoring the rule to its currently effective language and allowing for more frequent monitoring.

Workgroup Action: Accept

Petition Number – 10 **Workgroup Action: Accept In Principle**

1301:7-9-07(B)(1)

Submitter: Steven Thickstun, Modern American Safety Training, Inc.

Petition: (1) New USTs shall be equipped and monitored for releases ~~every thirty days~~ continuously using interstitial monitoring pursuant to paragraph (D)(1)(d) of this rule.

Substantiation: Interstitial monitoring is a continuous process rather than a test that is performed on a regular basis.

Workgroup Action: Accept In Principle

Workgroup Statement: Petitioner proposes language that indicates interstitial monitoring on new USTs be continuous. Some acceptable methods of interstitial monitoring may not be continuous. For example, some USTs with brine in the secondary containment may be monitored by checking the brine level once a month. The addition of the word “continuously” excludes these other methods of interstitial monitoring. The workgroup does not intend to exclude these other methods; therefore the specific proposed language is not accepted. However, the workgroup acknowledges that interstitial monitoring may occur more frequently than “every thirty days.” Therefore, the SFM, by petition #2416, proposed that “at least” be inserted before “every thirty days,” restoring the rule to its currently effective language and allowing for more frequent monitoring.

Petition Number – 1356 **Workgroup Action: Accept In Principle**

1301:7-9-07(B)(4)

Submitters:

Petition	LName	FName	Company Name	City	State
86	Rhoads	Jennifer	OPMCA	Dublin	Ohio
221	Mitchell	David	Reliable Construction Services	Dayton	Ohio
403	Lykins	Jeff	The Lykins Companies	Milford	Ohio
425	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
678	Englefield	Ben	Englefield Oil Company	Heath	Ohio
679	Englefield	Ben	Englefield Oil Company	Heath	Ohio
867	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1289	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1338	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1356	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1554	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1846	Nye	David	Truenorth	Toledo	Ohio
2064	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio

Petition: (B)(4) -Revise as follows: (4) New UST systems and existing UST systems meeting the secondary containment requirements pursuant to paragraph (B) of OAC 1301:7-9-06 containing motor or aviation petroleum fuels are not required to be monitored using product inventory control as described in paragraph (D)(1)(a) of this rule.

Substantiation: If an existing UST system is secondarily contained it also should not have to meet the requirements for inventory control.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup accepts the petitioner’s proposal that existing UST systems no longer be subject to daily monitoring requirements as provided in paragraph (D)(1)(A) of O.A.C. 1301:7-9-07. However, language to implement this exemption was proposed by the SFM for paragraph (C)(5) which provides that “[e]xisting UST systems containing motor or aviation petroleum fuels are no longer required to be monitored daily using product inventory control as described in paragraph (D)(1)(a) of this rule.” BUSTR determined that the implementation of daily monitoring did not result in earlier or more frequent release detections. Thus, the aforementioned language was added, expressly indicating existing USTs systems were no longer subject to the daily reporting requirement.

Petition Number – 1134

Workgroup Action: Reject

1301:7-9-07(B)(6)(b)

Submitter: William Rohrbaugh, Town & Country Co-op, Inc.

Petition: (b) Owners and operators may use product inventory control or automatic tank gauging in accordance with paragraph (D)(1)(a) or (D)(1)(c) of this rule for a period of up to ~~sixty~~ ninety days after the last passing result obtained in accordance with paragraphs (B)(1) of this rule. Afterwards, owners and operators shall take the UST system out of service in accordance with rule 1301:7-9-12 of the Administrative Code until such time that the release detection method is repaired or replaced.

(c) A fuel dispenser at an existing UST site shall be equipped, operated and maintained pursuant to the new UST system containment requirements defined in paragraph (B) of this rule as follows:

(i) if a new motor fuel dispensing system is installed where there previously was no dispenser;

(ii) if ~~or an existing motor fuel dispenser is replaced with another dispenser at an existing site and work is also performed on the~~ that requires modification to the main piping run, flex connector or shear valve associated with the dispenser; or

~~, then the fuel dispensing system shall be equipped, operated and maintained pursuant to the new containment requirements defined in paragraph (B)(3) of this rule.~~

Substantiation: Seasonal fuel specification changes (e.g., summer versus winter RVP) result in lower levels of motor fuel being stored in the tank in order to achieve the product quality during the transition from one fuel to another. For lower volume products, this transition could take several months to accomplish. In addition, higher fuel costs have resulted in very low turnover of some products (e.g., premium gasoline) resulting in low levels of product in the UST. As a result, many times it is difficult to achieve a successful test on an automatic tank gauge due to product level requirements for these devices. As a result, there will be circumstances where sufficient levels are not maintained in the UST to conduct a successful test using the automatic tank gauge; therefore, we propose that inventory reconciliation be allowed for the UST for a period up to 90 days if the automatic tank gauge is unable to conduct a successful test. This proposal is driven primarily by the reference to this paragraph in paragraph (C)(7) of this rule for existing UST systems.

Workgroup Action: Reject

Workgroup Statement: Petitioner adds language that extends the time period from sixty to ninety days during which tank owner/operators may use product inventory control or automatic tank gauging in the event of defective UST release detection. The petitioner is requesting to change a section of the rule specific to new USTs that must use interstitial monitoring. The workgroup recognizes that due to economic or seasonal reasons, lower levels of fuel may be present in USTs. However, this condition does not apply to secondarily contained USTs as they can be monitored for releases using interstitial monitoring regardless of the inventory level. Furthermore, the workgroup does not view daily inventory control, by itself, as a sufficiently reliable method of release detection that should be used for more than sixty days. The owner/operator should make every effort during the sixty day time period to repair or replace the primary method of interstitial monitoring. The sixty day time period is sufficient time for a tank-owner operator to repair or replace the method of interstitial monitoring while minimizing the chance of an undetected release, thus ensuring the health and the safety of the citizens of Ohio. In addition, petitioner adds language for a subparagraph (c) which is not related to this rule. This proposed language would be appropriate in paragraph (C)(7)(c) of O.A.C. 1301:7-9-06, a different rule, which outlines performance standards for existing UST systems. For the workgroup’s statement with respect to the petitioner’s proposed subparagraph (c), see workgroup statement for petition #1833.

Petition Number – 1362**Workgroup Action: Reject****1301:7-9-07(B)(6)(b)****Submitters:**

Petition	LName	FName	Company Name	City	State
64	Cubberley	Alan	Mac's Convenience Stores DBA Circle K	Akron	Ohio
88	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
94	Rhoads	Jennifer	OPMCA	Dublin	Ohio
167	Morgan	William	Collins Equipment	Cleveland	Ohio
222	Mitchell	David	Reliable Construction Services	Dayton	Ohio
293	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
408	Lykins	Jeff	The Lykins Companies	Milford	Ohio
426	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
680	Englefield	Ben	Englefield Oil Company	Heath	Ohio
870	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1041	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1090	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1220	White	James	BP	La Palma	California
1293	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1340	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1362	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1432	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1465	Yoder	Gregory	Carlisle Quickmart, Inc.	Walnut Creek	Ohio
1478	Reese	Karen	FirstEnergyCorp	Akron	Ohio
1557	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1637	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1704	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1767	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1783	Gravius	Jamie	Campbell Oil Company	Massillon	Ohio
1848	Nye	David	Truenorth	Toledo	Ohio
1854	Knott	Denny	Ney Oil Company	Ney	Ohio
2005	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2093	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2161	Wise	Raymond	Ravenna Oil Company	Ravenna	Ohio
2223	McPeek	Michael	Par Mar	Marietta	Ohio
2252	Santmeyer	Zach	Santmyer Oil Company	Wooster	Ohio

Petition: (B)(6)(b) –Revise as follows: (b) Owners and operators may use product inventory control or automatic tank gauging in accordance with paragraph (D)(1)(a) or (D)(1)(c) of this rule for a period of up to ~~sixty~~ ninety days after the last passing result obtained in accordance with paragraphs (B)(1) of this rule. Afterwards, owners and operators shall take the UST system out of service in accordance with rule 1301:7-9-12 of the Administrative Code until such time that the release detection method is repaired or replaced.

Substantiation: Seasonal fuel specification changes (e.g., summer versus winter RVP) result in lower levels of motor fuel being stored in the tank in order to achieve the product quality during the transition from one fuel to another. For lower volume products, this transition could take several months to accomplish. In addition, higher fuel costs have resulted in very low turnover of some products (e.g., premium gasoline) resulting in low levels of product in the UST. As a result, many times it is difficult to achieve a successful test on an automatic tank gauge due to product level requirements for these devices. As a result, there will be circumstances where sufficient levels are not maintained in the UST to conduct a successful test using the automatic tank gauge; therefore, we propose that inventory reconciliation be allowed for the UST for a period up to 90 days if the automatic tank gauge is unable to conduct a successful test. This proposal is driven primarily by the reference to this paragraph in paragraph (C)(7) of this rule for existing UST systems.

Workgroup Action: Reject

Workgroup Statement: Petitioner adds language that extends the time period from sixty to ninety days during which tank owner/operators may use product inventory control or automatic tank gauging in the event of defective UST

release detection. The petitioner is requesting to change a section of the rule specific to new USTs that must use interstitial monitoring. The workgroup recognizes that due to economic or seasonal reasons, lower levels of fuel may be present in USTs. However, this condition does not apply to secondarily contained USTs as they can monitor for releases using interstitial monitoring regardless of the inventory level. Furthermore, the workgroup does not view daily inventory control, by itself, as a sufficiently reliable method of release detection that should be used for more than sixty days. The owner/operator should make every effort during the sixty day time period to repair or replace the primary method of interstitial monitoring. The sixty day time period is sufficient time for a tank/owner operator to repair or replace the method of interstitial monitoring while minimizing the chance of an undetected release, thus ensuring the safety of Ohio citizens.

Petition Number – 1587**Workgroup Action: Accept In Principle****1301:7-9-07(C)(1)(a)**

Submitter: Karen Reese, FirstEnergy Corp

Petition: (a) Existing USTs shall be equipped and monitored for releases every thirty days using one of the methods in pursuant to paragraphs (D)(1)(c) and (D)(1)(d) of this rule except that:

Substantiation: Existing USTs systems are only required to be monitored by ATG or interstitially consistent with Federal rules. The way the rule is currently written suggests that both are required.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup accepts that existing UST systems are only required to be monitored by ATG or interstitial methods consistent with the Federal Guidelines. Both are not required. However, the workgroup intends to use the alternative language, “[e]xisting USTs shall be equipped and monitored for releases at least every thirty days pursuant to paragraphs (D)(1)(c) or (D)(1)(d) of this rule....” The workgroup’s alternative language also indicates that only one release detection monitoring system is used, but ties the options directly to a rule paragraph for reference.

Petition Number – 1641**Workgroup Action: Reject****1301:7-9-07(C)(1)(a)**

Submitter: Karen Reese, FirstEnergy Corp

Petition: Add: (iii) Existing piping associated with UST systems that store fuel solely for use by emergency power generators.

Substantiation: This change is necessary to clarify that existing UST systems that store fuel solely for use by emergency power generators are not required to have release detection.

Workgroup Action: Reject

Workgroup Statement: Petitioner proposes the following language as paragraph (C)(1)(a)(iii) that would exempt from the release detection requirements: “[e]xisting piping associated with UST systems that store fuel solely for use by emergency power generators.” Federal Guidelines provide that “new or replaced underground tanks and piping used for emergency power generation” must meet the requirements for secondary containment. In accordance with the Federal Guidelines, SFM proposed language in the draft rule, paragraph (C)(6), which provides “[e]xisting UST systems that store fuel for use by emergency power generators are not required to be equipped with release detection pursuant to paragraphs (B)(1) through (B)(3) of this rule unless the UST systems undergoes work pursuant to paragraph (C)(7) of rule 1301:7-9-06 of the Administrative Code.” Therefore, the petition is rejected because an exemption, to the extent permissible by the Federal Guidelines, is already provided in (C)(6), another paragraph of this rule.

Petition Number – 1643**Workgroup Action: Reject****1301:7-9-07(C)(1)(b)**

Submitter: Karen Reese, FirstEnergy Corp

Petition: Add: (iii) Existing piping associated with UST systems that store fuel solely for use by emergency power generators.

Substantiation: This change is necessary to clarify that existing UST systems that store fuel solely for use by emergency power generators are not required to be monitored for releases.

Workgroup Action: Reject

Workgroup Statement: Petitioner proposes the following language as paragraph (C)(1)(b)(iii) that would exempt from the rule 7 requirements “[e]xisting piping associated with UST systems that store fuel solely for use by emergency power generators.” Federal Guidelines provide that “new or replaced underground tanks and piping used for emergency power generation” must meet the requirements for secondary containment. In accordance with the Federal Guidelines, paragraph (C)(6) of the draft rule provides “[e]xisting UST systems that store fuel for use by emergency power generators are not required to be equipped with release detection pursuant to paragraphs (B)(1)

through (B)(3) of this rule unless the UST systems undergoes work pursuant to paragraph (C)(7) of rule 1301:7-9-06 of the Administrative Code.” Therefore, the petition is rejected because an exemption, to the extent permissible by the Federal Guidelines, is already provided in (C)(6), another paragraph of this rule.

Petition Number – 1364**Workgroup Action: Accept****1301:7-9-07(C)(2)****Submitters:**

Petition	LName	FName	Company Name	City	State
97	Rhoads	Jennifer	OPMCA	Dublin	Ohio
223	Mitchell	David	Reliable Construction Services	Dayton	Ohio
410	Lykins	Jeff	The Lykins Companies	Milford	Ohio
428	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
681	Englefield	Ben	Englefield Oil Company	Heath	Ohio
872	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1295	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1342	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1364	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1561	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1850	Nye	David	Truenorth	Toledo	Ohio

Petition: (C)(2) – Revise as follows: (2) Existing UST systems containing hazardous substances as defined in rule 1301:7-9-03 of the Administrative Code shall be equipped and monitored for a releases of a hazardous substance as defined in 1301:7-9-03 (B)(1) pursuant to the new UST system requirements defined in paragraph (B) of this rule except that:

Substantiation: the term “release” is defined in 1301:7-9-02 (B)(50) (*Definitions – Definitions*) and also in 1301:7-9-13(C)(25) (*Petroleum corrective action – Definitions*) for a petroleum product not a hazardous substance. This change is to clarify that release detection for hazardous substance UST systems is intended to monitor for a release of hazardous substances as defined in OAC 1301:7-9-03.

Workgroup Action: Accept**Petition Number – 1369****Workgroup Action: Reject****1301:7-9-07(C)(7)****Submitters:**

Petition	LName	FName	Company Name	City	State
66	Cubberley	Alan	Mac's Convenience Stores DBA Circle K	Akron	Ohio
91	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
100	Rhoads	Jennifer	OPMCA	Dublin	Ohio
168	Morgan	William	Collins Equipment	Cleveland	Ohio
228	Mitchell	David	Reliable Construction Services	Dayton	Ohio
294	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
412	Lykins	Jeff	The Lykins Companies	Milford	Ohio
430	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
682	Englefield	Ben	Englefield Oil Company	Heath	Ohio
875	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1042	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1097	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1142	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1222	White	James	BP	La Palma	California
1299	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1343	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1369	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1435	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1468	Yoder	Gregory	Carlisle Quickmart, Inc.	Walnut Creek	Ohio
1563	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

1590	Reese	Karen	FirstEnergy Corp	Akron	Ohio
1638	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1705	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1768	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1787	Gravius	Jamie	Campbell Oil Company	Massillon	Ohio
1852	Nye	David	Truenorth	Toledo	Ohio
1857	Knott	Denny	Ney Oil Company	Ney	Ohio
2007	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2008	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2096	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2164	Wise	Raymond	Ravenna Oil Company	Ravenna	Ohio
2224	McPeck	Michael	Par Mar	Marietta	Ohio
2227	McPeck	Michael	Par Mar	Marietta	Ohio
2228	McPeck	Michael	Par Mar	Marietta	Ohio
2253	Santmeyer	Zach	Santmyer Oil Company	Wooster	Ohio

Petition: (C)(7) – Revise as follows:

(7) If a method of UST release detection authorized in paragraph (C)(1)(a) of this rule is found to be defective or in the case of an automatic tank gauge a successful test could not be conducted during a thirty-day period, owners and operator shall ~~comply abide~~ with paragraph (B)(6)(a) through (B)(6)(b) of this rule and may use product inventory control as a method of UST release detection.

Substantiation: A reference to automatic tank gauge is added to clarify that for an automatic tank gauge a successful test may not be possible due to physical constraints such as low product level as discussed in our proposed revisions to paragraph (B)(6)(b). The term “abide” is not appropriate in this context. The requirement should be to comply with the requirements.

Workgroup Action: Reject

Workgroup Statement: The workgroup recognizes that due to economic or seasonal reasons, lower levels of fuel are maintained which may result in incomplete release detection. However, this section of the rule addresses defective release detection methods; this rule does not apply to low levels of inventory. Petitioner adds language that provides if a UST tank owner/operator, in the case of an automatic tank gauge, is unable to conduct a successful release detection test during a thirty day period then the owner/operator must comply with (B)(6)(a) and (B)(6)(b) which allows the owner/operator to use daily product inventory control or automatic tank gauging for up to sixty days after the last obtained passing result. Petitioner’s language results in up to thirty days in addition to the sixty days provided in (B)(6)(b) for tank owner/operator to be using daily product inventory control or automatic tank gauging as a release detection method. The workgroup does not view daily inventory control, by itself, as a sufficiently reliable method of release detection that should be used for more than sixty days. The owner/operator should make every effort during the sixty day time period to repair or replace the primary method of release detection. The sixty day time period is sufficient time for a tank/owner operator to repair or replace the method of release detection while minimizing the chance of an undetected release, thus ensuring the safety of Ohio citizens. The workgroup accepts the petitioner’s recommendation to replace the word “abide” with “comply.”

Petition Number – 1374

Workgroup Action: Reject

1301:7-9-07(C)(8)

Submitters:

Petition	LName	FName	Company Name	City	State
67	Cubberley	Alan	Mac's Convenience Stores DBA Circle K	Akron	Ohio
95	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
105	Rhoads	Jennifer	OPMCA	Dublin	Ohio
171	Morgan	William	Collins Equipment	Cleveland	Ohio
295	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
415	Lykins	Jeff	The Lykins Companies	Milford	Ohio
432	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
683	Englefield	Ben	Englefield Oil Company	Heath	Ohio
878	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1044	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1099	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio

1146	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1225	White	James	BP	La Palma	California
1302	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1346	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1374	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1437	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1472	Yoder	Gregory	Carlisle Quickmart, Inc.	Walnut Creek	Ohio
1567	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1593	Reese	Karen	FirstEnergy Corp	Akron	Ohio
1639	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1708	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1770	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1853	Nye	David	Truenorth	Toledo	Ohio
1860	Knott	Denny	Ney Oil Company	Ney	Ohio
2011	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2083	Byler	John	Chagrin Oil and Gas Co	Middlefield	Ohio
2098	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2099	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2185	Wise	Raymond	Ravenna Oil Company	Ravenna	Ohio
2225	McPeck	Michael	Par Mar	Marietta	Ohio
2254	Santmeyer	Zach	Santmyer Oil Company	Wooster	Ohio

Petition: (C)(8) – Revise as follows: (8) If work is performed on an existing UST system in order to meet the requirements of paragraph (C)(7) of rule 1301:7-9-06 of the Administrative Code, then the UST, piping or containments equipment affected by the work shall meet the release detection requirements for new UST systems as described in paragraphs (B)(1) through (B)(3) of this rule except that: (a) Containments under dispensers at existing UST sites are not required to meet the release detection requirements for new UST systems until fifty percent (50%) or more of the dispensers at the UST site are so equipped.

Substantiation: As the proposed paragraph (C)(7)(c) of OAC 1301:7-9-06 is written and as suggested in our proposed revisions to paragraph (C)(7)(c) of OAC 1301:7-9-06, containments under dispensers could be installed one at a time over long time periods. As a result, the requirement for continuous monitoring of these containments should be deferred until there are a significant number of units installed at a UST site.

Workgroup Action: Reject

Workgroup Statement: The Federal Guidelines permit the states to determine requirements for release detection in containments. Most releases occur in containment areas, therefore, any time a containment is installed on an upgraded or new system, the containment should also be monitored for releases to ensure the safety of Ohioans. This determination does not include a specific threshold or percentage of dispensers worked on at a site. Even single containments should be equipped with stand alone monitors. Normally, piping and containment work usually occurs simultaneously. Piping and containments usually share common leak detection components, such as a low point sump sensor. Therefore, by meeting the leak detection requirements for piping, the owner will also be meeting the leak detection requirements for the containment at no additional cost.

Petition Number – 19

Workgroup Action: Reject

1301:7-9-07(D)(1)

Submitter: Steven Thickstun, Modern American Safety Training, Inc.

Petition: (e) All Underground Storage Tanks shall undergo an ullage test at intervals of not less than (five) years to determine the integrity of the fuel storage tank and tank fittings above the fuel level.

Substantiation: Automatic tank gauging systems are not currently capable of testing the ullage on underground storage tanks. Leaks above the fuel level can permit groundwater to enter the tank thus raising the fuel level and contaminating the fuel, and, in tank overfill or high-fuel level situations can result in a product release to the environment. The proposed wording will permit the use of automatic ullage testing should it become available. A testing interval of 5 years should not work an economic hardship on tank owners. Tank tightness testers currently conduct ullage tests when performing precision tightness tests.

Workgroup Action: Reject

Workgroup Statement: The workgroup recognizes that leak detection is an important matter. However, the USEPA phased out mandatory tank tightness testing in December 1998 in favor of the current leak detection requirements. BUSTR leak autopsies do not indicate that the ullage space in USTs is at high risk for release. The majority of

releases occur in underground piping and containment areas. The Petitioner does not provide any contrary evidence indicating that ullage presents a high risk of release. Furthermore, the workgroup disagrees with petitioner that a ullage test every five years would not pose economic hardship on tank owners.

Petition Number – 1382**Workgroup Action: Accept In Principle****1301:7-9-07(D)(1)(c)****Submitters:**

Petition	LName	FName	Company Name	City	State
70	Cubberley	Alan	Mac's Convenience Stores DBA Circle K	Akron	Ohio
104	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
111	Rhoads	Jennifer	OPMCA	Dublin	Ohio
183	Morgan	William	Collins Equipment	Cleveland	Ohio
231	Mitchell	David	Reliable Construction Services	Dayton	Ohio
301	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
417	Lykins	Jeff	The Lykins Companies	Milford	Ohio
433	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
684	Englefield	Ben	Englefield Oil Company	Heath	Ohio
881	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1047	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1104	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1154	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1228	White	James	BP	La Palma	California
1310	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1347	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1382	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1441	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1479	Yoder	Gregory	Carlisle Quickmart, Inc.	Walnut Creek	Ohio
1573	Wirt	Earnest	American Electric Power Company	Columbus	Ohio
1600	Reese	Karen	FirstEnergy Corp	Akron	Ohio
1642	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1712	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1773	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1790	Gravius	Jamie	Campbell Oil Company	Massillon	Ohio
1855	Nye	David	Truenorth	Toledo	Ohio
1867	Knott	Denny	Ney Oil Company	Ney	Ohio
2015	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2094	Byler	John	Chagrin Oil and Gas Co	Middlefield	Ohio
2102	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio

Petition: (D)(1)(c) – Revise as follows: (c) Equipment for automatic tank gauging that tests for the loss of regulated substance and conducts inventory control shall comply with the following requirements: (i) Equipment for automatic tank gauging shall perform:

(a) an in-tank leak test at least once every thirty days capable of detecting a two-tenth of a gallon per hour leak rate from any portion of the tank; or (b) continuous statistical leak detection capable of detecting a two-tenth of a gallon per hour leak rate from any portion of the tank once every thirty days. (ii) ~~The automatic product level monitor test shall be able to detect a two-tenth of a gallon per hour leak rate from any portion of the tank;~~ and (iii) A release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of the Revised Code and this chapter of the Administrative Code if a two-tenth of a gallon per hour leak rate is detected from any portion of the tank. (iii) ~~Equipment for automatic tank gauging, including probes, sensors and monitoring units, shall be evaluated annually by a qualified person as described in paragraph (D)(5) of this rule to confirm proper calibration and operation in accordance with the manufacturer's requirements.~~

Substantiation: Continuous statistical leak detection is an effect and less disruptive in-tank test process that has been third party tested to meet or exceed the USEPA leak detection requirements. This approach is discussed in USEPA's August 2000 reference manual for UST inspectors on Automatic Tank Gauging Systems for Release Detection. This option should be included as an accepted approach and not require approval as an alternative technology. See the manufacturer's (e.g., Veeder Root, EMC) specification for addition information on the application of this technology

for UST systems and third party testing.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup intends to use the following slightly different language for (D)(1)(c)(i)(a): “(i) Equipment for automatic tank gauging shall perform one of the following: an in-tank leak test capable of detecting a two tenth of a gallon per hour leak rate from any portion of the tank at least once every thirty days....” This language is slightly different than the language proposed by petitioner, but achieves the same result. The workgroup accepts that continuous statistical leak detection is a third party approved method that meets or exceeds the USEPA leak detection requirements. Petitioner’s (D)(1)(c)(i)(b) is accepted as proposed. Finally, the workgroup accepts the deletion of (D)(1)(c)(ii).

Petition Number – 1388 **Workgroup Action: Accept**

1301:7-9-07(D)(1)(d)

Submitters:

Petition	LName	FName	Company Name	City	State
115	Rhoads	Jennifer	OPMCA	Dublin	Ohio
420	Lykins	Jeff	The Lykins Companies	Milford	Ohio
435	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
685	Englefield	Ben	Englefield Oil Company	Heath	Ohio
883	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1318	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1350	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1388	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1856	Nye	David	Truenorth	Toledo	Ohio
2318	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (D)(1)(d) – Revise as follows: (d) ~~Equipment for the m~~Monitoring of the interstice of secondarily contained UST systems shall comply with the following requirements: (i) ~~Equipment for Monitoring of the interstitial space monitoring shall be performed a test~~ at least once every thirty days;

Substantiation: There are circumstances where visual inspection may be employed as a monitoring method for a secondarily contained system such as a vault. The use of the phrase “equipment for” suggests that monitoring will always be a mechanical or electronic device and excludes the visual or other manual forms of monitoring.

Workgroup Action: Accept

Petition Number – 11 **Workgroup Action: Reject**

1301:7-9-07(D)(1)(d)(i)

Submitter: Steven Thickestun, Modern American Safety Training, Inc.

Petition: (i) Equipment for interstitial monitoring shall ~~perform a test at least once every thirty days~~ continuously monitor the interstice and alert the UST Operator within 24 hours when a potential leak is detected;

Substantiation: Interstitial monitoring is a continual process and the alarms enerated by that process are nearly real-time. Someone should be paying attention to the monitoring process either through an on-site display panel or a remote monitor for unattended sites.

Workgroup Action: Reject

Workgroup Statement: Petitioner proposes language that indicates interstitial monitoring on USTs is continuous. However, some acceptable methods of interstitial monitoring may not be continuous. For example, some USTs with brine in the secondary containment may be monitored by checking the brine level once a month. The addition of the word “continuously” excludes these other methods of interstitial monitoring. The exclusion of these other methods was not intended; therefore the specific proposed language is not accepted. Also, petitioner proposes to rescind the language “perform a test at least once every thirty days”. The workgroup, however, has determined that the wording should remain unchanged in order to be consistent with O.A.C 1301:7-9-07(B)(1). Therefore, the workgroup rejects this rescission and intends to proceed with the current draft language. In addition, the petitioner proposes language that would require the leak detection equipment to automatically alert the UST operator of any potential leaks within twenty-four hours of detection. BUSTR regulations do not require equipment to perform at this level. Most existing equipment would have to be upgraded to comply with petitioner’s proposal. Such upgrades may be cost prohibitive at this time.

Petition Number – 1391**Workgroup Action: Reject****1301:7-9-07(D)(2)(c)(ii)(b)****Submitters:**

Petition	LName	FName	Company Name	City	State
120	Rhoads	Jennifer	OPMCA	Dublin	Ohio
234	Mitchell	David	Reliable Construction Services	Dayton	Ohio
422	Lykins	Jeff	The Lykins Companies	Milford	Ohio
437	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
686	Englefield	Ben	Englefield Oil Company	Heath	Ohio
887	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1323	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1352	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1391	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1858	Nye	David	Truenorth	Toledo	Ohio
2319	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (D)(2)(c)(ii)(b) – Revise as follows: (b) Automatic line leak detectors that fail a test method shall be repaired or replaced undergo routine maintenance, modification or major repair, as appropriate, to restore the automatic line leak detectors to working order.

Substantiation: This language has been changed to be consistent with previous language associated with a defective release detection device such as in (B)(6). Further, the inclusion of terms such as major repair and modification are not appropriate for the majority of the cases for this type of equipment.

Workgroup Action: Reject

Workgroup Statement: The draft rule language allows owners to perform routine maintenance on leak detection components without a permit in some circumstances. The petitioner’s language “be repaired or replaced” would require an owner to always acquire a permit because of the definitions of “repair” and “replace” in definitions in O.A.C. 1301:7-9-02 (rule 2). Requiring a permit would place additional financial costs on UST owner/operators. The workgroup intends to reassess the definitions of repair, replace, and modification, etc. in a future review of rule 2. At that time, any changes in these related definitions and the effect on other rules will be addressed. As such, petitioner’s proposal cannot be accepted at this time.

Petition Number – 2417**Workgroup Action: Accept****1301:7-9-07(D)(2)(d)(i)**

Submitter: Division of State Fire Marshal

Petition: Underground piping that conveys regulated substances under suction shall be monitored for loss of vacuum. Within twenty-four (24) hours of an UST owner and operator discovering vacuum loss, the owner and operator shall initiate an investigation of the cause of the loss of vacuum, and determine whether the component is defective, but not leaking. If an owner and operator is unable to make a determination of the loss of vacuum, then the loss of vacuum shall be considered a suspected release as defined in O.A.C. 1301:7-9-13(C)(34) and the owner and operator shall comply with O.A.C. 1301:7-9-13(F)(2). If a component is leaking it shall constitute a release as defined in O.A.C. 1301:7-9-13(C)(25) and the owner and operator shall comply with O.A.C. 1301:7-9-13(F).

Substantiation: Loss of vacuum should be investigated within twenty-four hours of discovery. However, it may not always be possible within twenty-four hours to determine the cause. At a minimum, the owner/operator, within twenty-four hours of discovering vacuum loss, should initiate an investigation of the cause, and determine, at a minimum, whether the component is defective, but not leaking.

Workgroup Action: Accept

Petition Number – 1646**Workgroup Action: Accept In Principle****1301:7-9-07(D)(2)(d)(i)**

Submitter: Karen Reese, FirstEnergy Corp

Petition: (i) Underground piping that conveys regulated substances under suction shall be monitored for loss of vacuum. Loss of vacuum is indicated by inability to dispense regulated substances or erratic operation of the pump. If loss of vacuum is suspected, the owner and operator shall, within 24 hours, determine if the loss of vacuum is a result of a mechanical failure of the pump or check valve. If the loss of vacuum is not determined to be a mechanical failure of the pump or check valve, then checked monthly for indications of a loss of prime that would suggest that a release has occurred. If a loss of prime is evident, a release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of the Revised Code and this chapter of the Administrative Code.

Substantiation: We are not aware of a method to monthly check for a loss of prime. If a release would occur in the suction piping by design the pump would not operate. A suspected release has not occurred until a mechanical failure of the pump or check valve has been ruled out.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup accepts that the term “loss of prime” is ambiguous and will therefore accept petitioner’s proposal to use the term “loss of vacuum.” Specifically, the workgroup rescinds “check monthly for indications of loss of vacuum” and uses the language “[u]nderground piping that conveys regulated substances under suction shall be monitored for loss of vacuum.” The workgroup accepts that loss of vacuum should be investigated within twenty-four hours of discovery. However, it may not always be possible within twenty-four hours for a determination to be made of whether the vacuum loss is due to mechanical failure of the pump or check valve. At a minimum, the workgroup believes that the owner/operator, within twenty-four hours of discovering vacuum loss, must initiate an investigation of the cause, and determine, at a minimum, whether the component is defective, but not leaking. The SFM proposed, by separate petition #2417, the following language:

Underground piping that conveys regulated substances under suction shall be monitored for loss of vacuum. Within twenty-four (24) hours of an UST owner/operator discovering vacuum loss, the owner/operator shall initiate an investigation of the cause of the loss of vacuum, and determine whether the component is defective, but not leaking. If an owner/operator is unable to make a determination of the loss of vacuum, then the loss of vacuum shall be considered a suspected release as defined in O.A.C. 1301:7-9-13(C)(34) and the owner/operator shall comply with O.A.C. 1301:7-9-13(F)(2). If a component is leaking it shall constitute a release as defined in O.A.C. 1301:7-9-13(C)(25) and the owner/operator shall comply with O.A.C. 1301:7-9-13(F).

Petition Number – 2418 **Workgroup Action: Accept**

1301:7-9-07(D)(2)(d)(ii)(b)

Submitter: Division of State Fire Marshal

Petition: (ii) Underground piping that conveys regulated substances under suction shall meet one of the following:

(a) Have a tightness test conducted every thirty-six month period in compliance with paragraph (F)(2)(a) of this rule; or

(b) Demonstrate compliance with the following safe suction requirements: ~~of paragraph (B)(54?) of rule 1301:7-9-02 of the Administrative Code.~~ (i) The underground piping operates at less than atmospheric pressure; (ii) The underground piping is sloped so that the contents of the pipe will drain back into the tank if the suction is released; (iii) Only one check valve is included in each suction line; (iv) The check valve is located directly below and as close as practical to the suction pump; and (v) A method is provided that allows compliance with paragraphs (b)(i) through (iv) of this paragraph to be readily determined.

Substantiation: The term “safe suction” is only used in this paragraph of the rule and therefore a separate definition is not needed in rule O.A.C. 1301:7-9-02 (rule 2). The definition is incorporated directly into this subparagraph. Further, this language is consistent with federal regulation 40 C.F.R. 280.41(b)(2) which sets forth exceptions to release detection requirements for suction piping.

Workgroup Action: Accept

Petition Number – 1395 **Workgroup Action: Accept In Principle**

1301:7-9-07(D)(2)(d)(ii)(b)

Submitters:

Petition	LName	FName	Company Name	City	State
124	Rhoads	Jennifer	OPMCA	Dublin	Ohio
236	Mitchell	David	Reliable Construction Services	Dayton	Ohio
424	Lykins	Jeff	The Lykins Companies	Milford	Ohio
439	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
687	Englefield	Ben	Englefield Oil Company	Heath	Ohio
891	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
933	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1327	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1353	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1395	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1861	Nye	David	Truenorth	Toledo	Ohio

2220	Reese	Karen	FirstEnergy Corp	Akron	Ohio
2320	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (D)(2)(a)(ii)(b) – Revise as follows: (b) Demonstrate compliance with the following requirements for safe suction piping requirements of paragraph (B)(54?) of rule 1301:7-9-02 of the Administrative Code: (i) operates at less than atmospheric pressure, (ii) is sloped so that the regulated substance in the pipe can drain back into the tank if suction is released, and (iii) has only one check valve located directly beneath and as close as practical to the suction pump.

Substantiation: The term “safe suction” is only used in this paragraph. As a result, a definition in OAC 1301:7-9-02 is not needed. The proposed criterion for safe suction is based on general accepted criteria for safe suction used by industry and other states.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup accepts the petitioner’s position that only safe suction is used in this paragraph. The workgroup, per acceptance of petition #2418, changed the language to be consistent with federal regulation 40 C.F.R. 280.41(B)(2) which sets forth exceptions to release detection requirements for suction piping.

Petition Number – 1400

Workgroup Action: Reject

1301:7-9-07(D)(3)(a)

Submitters:

Petition	LName	FName	Company Name	City	State
69	Cubberley	Alan	Mac’s Convenience Stores DBA Circle K	Akron	Ohio
99	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
127	Rhoads	Jennifer	OPMCA	Dublin	Ohio
172	Morgan	William	Collins Equipment	Cleveland	Ohio
298	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
427	Lykins	Jeff	The Lykins Companies	Milford	Ohio
441	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
688	Englefield	Ben	Englefield Oil Company	Heath	Ohio
894	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
936	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1045	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1102	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1152	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1227	White	James	BP	La Palma	California
1332	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1354	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1400	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1439	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1476	Yoder	Gregory	Carlisle Quickmart, Inc.	Walnut Creek	Ohio
1597	Reese	Karen	FirstEnergy Corp	Akron	Ohio
1640	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1710	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1771	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1862	Nye	David	Truenorth	Toledo	Ohio
1864	Knott	Denny	Ney Oil Company	Ney	Ohio
2013	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2086	Byler	John	Chagrin Oil and Gas Co	Middlefield	Ohio
2100	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2188	Wise	Raymond	Ravenna Oil Company	Ravenna	Ohio
2226	McPeek	Michael	Par Mar	Marietta	Ohio
2255	Santmeyer	Zach	Santmyer Oil Company	Wooster	Ohio
2321	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (D)(3)(a) – Revise as follows: (a) Containment systems shall be continuously monitored with sensors capable of detecting a release of a regulated substance before the release reaches the lowest penetration in the containment system. Sensors shall be located in every containment except that:- (i) Containments under dispensers at existing UST sites are not required to meet the release detection requirements for new UST systems until fifty percent

(50%) or more of the dispensers at the UST site are so equipped.

Substantiation: As the proposed paragraph (C)(7)(c) of OAC 1301:7-9-06 is written and as suggested in our proposed revisions to paragraph (C)(7)(c) of OAC 1301:7-9-06, containments under dispensers could be installed one at a time over long time periods. As a result, the requirement for continuous monitoring of these containments should be deferred until this is a significant number of units installed at a UST site.

Workgroup Action: Reject

Workgroup Statement: The Federal Guidelines permit the states to determine requirements for release detection in containments. Most releases occur in containment areas, therefore any time a containment is installed on an upgraded or new system, the containment should also be monitored for releases to ensure the safety of Ohioans. Even single containments should be equipped with stand alone monitors. Normally, piping and containment work usually occurs simultaneously. Piping and containments usually share common leak detection components, such as a low point sump sensor. Therefore, by meeting the leak detection requirements for piping, the owner will also be meeting the leak detection requirements for the containment at no additional cost.

Petition Number – 2422 **Workgroup Action: Accept**

1301:7-9-07(D)(5)

Submitter: Division of State Fire Marshal

Petition: (5) Release detection methods described in paragraphs (D)(1)(c) through (D)(4)(c) of this rule shall be evaluated for proper operation by a qualified person who is: (a) Recognized by the manufacturer of the release detection method to be proficient in the evaluation of the release detection method; (b) Recognized by an ~~accredited~~ third party approved by the state fire marshal to be proficient in the evaluation of the release detection method; or (c) Recognized by the state fire marshal as proficient in the evaluation of the release detection method.

Substantiation: The word accredited is rescinded because criteria have not been established for the meaning of this word. Instead, the third party will be subject to the state fire marshal’s approval.

Workgroup Action: Accept

Petition Number – 2438 **Workgroup Action: Accept**

1301:7-9-07(D)(6)

Submitter: Division of State Fire Marshal

Petition: (6) All methods of release detection shall be properly installed in accordance with the manufacturer’s instructions and either “Petroleum Equipment Institute Publication RP100-~~2000~~ 2005; Recommended Practices for Installation of Underground Liquid Storage Systems” or “American Petroleum Institute Publication 1615-01; Installation of Underground Petroleum Storage Systems.” Where there is a conflict between requirements the more protective requirement shall prevail.

Substantiation: The latest standards are referenced in the regulations in order to ensure that work is performed pursuant to the most recent accepted practices. The latest standards address better construction practices, better safety procedures, and the proper protocols to follow for new technology.

Workgroup Action: Accept

Petition Number – 1404 **Workgroup Action: Accept**

1301:7-9-07(F)(1)(a)

Submitters:

Petition	LName	FName	Company Name	City	State
129	Rhoads	Jennifer	OPMCA	Dublin	Ohio
255	Mitchell	David	Reliable Construction Services	Dayton	Ohio
429	Lykins	Jeff	The Lykins Companies	Milford	Ohio
443	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
689	Englefield	Ben	Englefield Oil Company	Heath	Ohio
897	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
938	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1334	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1357	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1404	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1863	Nye	David	Truenorth	Toledo	Ohio
2069	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
2322	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (F)(1)(a) – Revise as follows: a) Tank tightness testing of the primary shell of both single wall and of secondarily contained ~~tanks~~-UST shall be capable of detecting a one tenth of a gallon per hour leak rate from any portion of the primary shell tank while accounting for the effects of thermal expansion or contraction of the regulated substance, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

Substantiation: To clarify that this paragraph only applies to the primary or inner tank and not the interstitial space or outer wall of a double-walled tank.

Workgroup Action: Accept

Petition Number – 1408

Workgroup Action: Accept In Principle

1301:7-9-07(F)(1)(b)

Submitters:

Petition	LName	FName	Company Name	City	State
72	Cubberley	Alan	Mac's Convenience Stores DBA Circle K	Akron	Ohio
109	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
131	Rhoads	Jennifer	OPMCA	Dublin	Ohio
185	Morgan	William	Collins Equipment	Cleveland	Ohio
257	Mitchell	David	Reliable Construction Services	Dayton	Ohio
304	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
431	Lykins	Jeff	The Lykins Companies	Milford	Ohio
444	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
690	Englefield	Ben	Englefield Oil Company	Heath	Ohio
940	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1048	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1106	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1159	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1229	White	James	BP	La Palma	California
1337	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1358	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1408	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1442	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1483	Yoder	Gregory	Carlisle Quickmart, Inc.	Walnut Creek	Ohio
1601	Reese	Karen	FirstEnergy Corp	Akron	Ohio
1644	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1714	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1776	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1865	Nye	David	Truenorth	Toledo	Ohio
1868	Knott	Denny	Ney Oil Company	Ney	Ohio
2017	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2103	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2216	Dean	David	Buckeye Oil Equipment Co.	Vandalia	Ohio
2323	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (F)(1)(b) Revise as follows: (b) Tightness testing of the interstice of secondarily contained ~~tanks~~-UST shall follow the manufacturer's testing requirements or generally accepted industry practice.

Substantiation: Manufacturer's testing requirements for the interstice of secondarily contained UST typically refer to testing during the installation of the UST. We are not aware of manufacturer's testing requirements that apply to the interstice of secondarily contained UST that have been in service. The proposed change would allow testing based on industry practices to be allowed for testing of the interstice of secondarily contained UST. Generally accepted industry practices would be identified and overseen by the Certified Installer

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup accepts the premise that the types of acceptable testing should be expanded. However, the workgroup declines the language, "or generally accepted industry practice" proposed by petitioner as this language is too broad. Although a practice may be generally accepted by the industry, it may not ultimately conform to BUSTR policies or standards set forth by the SFM. The SFM proposed language for 7(F)(1)(b) by

petition #2419 and 7(F)(2)(c) by petition #2420, that provides “[t]ightness testing of the interstice of secondarily contained USTs shall follow the manufacturer’s testing requirements or other requirements approved by the manufacturer, the state fire marshal, or a third party who has demonstrated proficiency in tightness testing to the state fire marshal.” This language more specifically describes under what circumstances testing may be acceptable, but is more expansive than the draft rule language.

Petition Number – 2419 **Workgroup Action: Accept**

1301:7-9-07(F)(1)(b)

Submitter: Division of State Fire Marshal

Petition: (b) Tightness testing of the interstice of secondarily contained ~~tanks~~ USTs shall follow the manufacturers testing requirements or other requirements approved by the manufacturer, the state fire marshal, or a third party who has demonstrated proficiency in tightness testing to the state fire marshal.

Substantiation:

The types of acceptable testing should be expanded. This language is more specific as to under what circumstances and qualifications testing may be acceptable, but is more expansive than the language in the proposed draft rule. The manufacturer may not provide testing requirements. Therefore, alternative options such as requirements approved by the SFM or by third parties provide reasonable alternatives when approval from the manufacturer is unavailable.

Workgroup Action: Accept

Petition Number – 1413 **Workgroup Action: Accept**

1301:7-9-07(F)(2)(a)

Submitters:

Petition	LName	FName	Company Name	City	State
134	Rhoads	Jennifer	OPMCA	Dublin	Ohio
260	Mitchell	David	Reliable Construction Services	Dayton	Ohio
434	Lykins	Jeff	The Lykins Companies	Milford	Ohio
446	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
691	Englefield	Ben	Englefield Oil Company	Heath	Ohio
942	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1341	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1360	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1413	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1866	Nye	David	Truenorth	Toledo	Ohio
2074	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
2324	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (F)(2)(a) Revise as follows: (a) Piping tightness testing of ~~the primary piping of both single wall pipe and the primary or inner pipe of~~ secondarily contained pressure piping may be conducted only if it can detect a one-tenth of a gallon per hour leak rate at one and one-half times the operating pressure.

Substantiation: To clarify that this paragraph only applies to the primary or inner pipe and not the interstitial space or outer wall of double walled pipe

Workgroup Action: Accept

Petition Number – 1417 **Workgroup Action: Accept In Principle**

1301:7-9-07(F)(2)(c)

Submitters:

Petition	LName	FName	Company Name	City	State
73	Cubberley	Alan	Mac's Convenience Stores DBA Circle K	Akron	Ohio
114	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
135	Rhoads	Jennifer	OPMCA	Dublin	Ohio
186	Morgan	William	Collins Equipment	Cleveland	Ohio
262	Mitchell	David	Reliable Construction Services	Dayton	Ohio
307	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
436	Lykins	Jeff	The Lykins Companies	Milford	Ohio
448	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
692	Englefield	Ben	Englefield Oil Company	Heath	Ohio
945	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio

1049	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1109	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1162	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1232	White	James	BP	La Palma	California
1345	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1361	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1417	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1443	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1491	Yoder	Gregory	Carlisle Quickmart, Inc.	Walnut Creek	Ohio
1602	Reese	Karen	FirstEnergy Corp	Akron	Ohio
1645	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1715	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1778	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1869	Nye	David	Truenorth	Toledo	Ohio
1871	Knott	Denny	Ney Oil Company	Ney	Ohio
2019	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2105	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2217	Dean	David	Buckeye Oil Equipment Co.	Vandalia	Ohio
2325	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (F)(2)(b) Revise as follows: (b) Tightness testing of the interstice of secondarily contained piping shall follow the manufacturer’s testing requirements or generally accepted industry practice.

Substantiation: Manufacturer’s testing requirements for the interstice of secondarily contained piping typically refer to testing during the installation of the piping. We are not aware of manufacturer’s testing requirements that apply to the interstice of secondarily contained piping that have been in service. The proposed change would allow testing based on industry practices (e.g., a pressure decay test) to be allowed for testing of the interstice of secondarily contained piping. Generally accepted industry practices would be identified and overseen by the Certified Installer

Workgroup Action: Accept In Principle

Workgroup Statement: The petitioner’s reference to the rule, 7(F)(2)(b) contains a typo and should read (7)(2)(c). The workgroup accepts the premise that the types of acceptable testing should be expanded. However, the workgroup declines the language, “or generally accepted industry practice” proposed by petitioner as this language is too broad. Although a practice may be generally accepted by the industry, it may not ultimately conform to BUSTR policies or standards set forth by the SFM. The SFM proposed language for 7(F)(1)(b) by petition #2419 and 7(F)(2)(c) by petition #2420, that provides “[t]ightness testing of the interstice of secondarily contained USTs shall follow the manufacturer’s testing requirements or other requirements approved by the manufacturer, the state fire marshal, or a third party who has demonstrated proficiency in tightness testing to the state fire marshal.” This language more specifically describes under what circumstances testing may be acceptable, but is more expansive than the draft rule language.

Petition Number – 2420

Workgroup Action: Accept

1301:7-9-07(F)(2)(c)

Submitter: Division of State Fire Marshal

Petition: (c) Tightness testing of the interstice of secondarily contained piping shall follow the manufacturers testing requirements or other requirements approved by the manufacturer, the state fire marshal, or a third party who has demonstrated proficiency in tightness testing to the state fire marshal.

Substantiation: The types of acceptable testing should be expanded. This language is more specific as to under what circumstances and qualifications testing may be acceptable, but is more expansive than the language in the proposed draft rule. The manufacturer may not provide testing requirements. Therefore, alternative options such as requirements approved by the SFM or by third parties provide reasonable alternatives when approval from the manufacturer is unavailable.

Workgroup Action: Accept

Petition Number – 1424 **Workgroup Action: Accept**

1301:7-9-07(F)(4)

Submitters:

Petition	LName	FName	Company Name	City	State
29	Willman	Edward	Beck Suppliers, Inc.	Attica	Ohio
75	Cubberley	Alan	Mac's Convenience Stores DBA Circle K	Akron	Ohio
119	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
137	Rhoads	Jennifer	OPMCA	Dublin	Ohio
188	Morgan	William	Collins Equipment	Cleveland	Ohio
264	Mitchell	David	Reliable Construction Services	Dayton	Ohio
309	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
438	Lykins	Jeff	The Lykins Companies	Milford	Ohio
449	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
693	Englefield	Ben	Englefield Oil Company	Heath	Ohio
947	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1050	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1111	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1168	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1234	White	James	BP	La Palma	California
1349	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1363	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1424	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1445	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1507	Yoder	Gregory	Carlisle Quickmart, Inc.	Walnut Creek	Ohio
1603	Reese	Karen	FirstEnergy Corp	Akron	Ohio
1647	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1716	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1780	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1870	Nye	David	Truenorth	Toledo	Ohio
1873	Knott	Denny	Ney Oil Company	Ney	Ohio
2023	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2108	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2218	Dean	David	Buckeye Oil Equipment Co.	Vandalia	Ohio
2326	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (F)(4) – Revise as follows: (4) All testing methods listed in paragraphs (F)(1)(a) and through (F)(32)(a)(iii) of this rule shall be third party approved to perform in a manner where the method can detect a release at the designated release rate with a probability of detection of 0.95 and a probability of falsely indicating a release of 0.05. A release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of the Revised Code and this chapter of the Administrative Code if a leak rate exceeds the amount designated for the testing method.

Substantiation: We are not aware of third party approvals for testing methods for an interstitial space or containment. In fact, the containment testing criteria in this rule was developed by BUSTR during the 2005 rule revisions.

Workgroup Action: Accept

Petition Number – 1431 **Workgroup Action: Reject**

1301:7-9-07(F)(5)

Submitters:

Petition	LName	FName	Company Name	City	State
138	Rhoads	Jennifer	OPMCA	Dublin	Ohio
266	Mitchell	David	Reliable Construction Services	Dayton	Ohio
440	Lykins	Jeff	The Lykins Companies	Milford	Ohio
451	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
694	Englefield	Ben	Englefield Oil Company	Heath	Ohio

949	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1351	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1365	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1431	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1872	Nye	David	Truenorth	Toledo	Ohio
2327	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (F)(5) – Revise as follows: (5) Testing shall be performed in accordance with the manufacturer’s instructions, petroleum equipment institute publication RP100-2000; “Recommended Practices for Installation of Underground Liquid Storage Systems”, American petroleum institute publication 1615-01; “Installation of Underground Petroleum Storage Systems”, ~~National Fire Protection Association Publication NFPA 30-03~~ the Ohio Fire Code Chapter 34 “Flammable and Combustible Liquids Code”, ~~National Fire Protection Association Publication NFPA 30A-03~~ the Ohio Fire Code Chapter 22 “Motor Fuel Dispensing Facilities and Repair Garages”. Where there is a conflict between requirements the more protective requirement shall prevail.

Substantiation: In light of the fact that the Ohio Fire code is based on the International Fire Code, references to the NFPA publications could result in conflicts between the fire code and UST requirements. It would seem that references to the Ohio Fire code are more appropriate. The Ohio Fire Code, in turn, contains appropriate references to the NFPA publications.

Workgroup Action: Reject

Workgroup Statement: Referring directly to the applicable NFPA standard is more appropriate than referring directly to the Ohio Fire Code. Pursuant to R.C. 3741.14(A), the Ohio Fire Code is statutorily mandated to refer to the NFPA 30A-1990 with respect to filling stations offering self-service. For other purposes, the Ohio Fire Code may only refer to an NFPA standard that does not completely set forth the BUSTR standard or the Ohio Fire Code may only refer to particular NFPA sections within a standard as a supplement. Therefore, for BUSTR’s purposes, a reference to the Ohio Fire Code may refer to the unintended version of the NFPA or be under inclusive. Finally, if, for any reason there is a conflict between the NFPA that is referenced in a BUSTR rule and the Ohio Fire Code, the BUSTR rule shall apply pursuant to O.A.C. 1301:7-7-01(B)(10) (102.10). Therefore, it is rational for the rule to directly refer to the NFPA and rejects this petition for the foregoing reasons.

Petition Number – 2439 **Workgroup Action: Accept**

1301:7-9-07(F)(5)

Submitter: Division of State Fire Marshal

Petition: (5) Testing shall be performed in accordance with the manufacturer’s instructions, petroleum equipment institute publication RP100-~~2000~~ 2005; “Recommended Practices for Installation of Underground Liquid Storage Systems”, American Petroleum Institute Publication 1615-01; “Installation of Underground Petroleum Storage Systems”, National Fire Protection Association Publication NFPA 30-~~03~~ 2008 “Flammable and Combustible Liquids Code”, and National Fire Protection Association Publication NFPA 30A-~~03~~ 2008 “Motor Fuel Dispensing Facilities and Repair Garages”. Where there is a conflict between requirements the more protective requirement shall prevail.

Substantiation: The latest standards are referenced in the regulations in order to ensure that work is performed pursuant to the most recent accepted practices. The latest standards address better construction practices, better safety procedures, and the proper protocols to follow for new technology. Also, the titles of standards should be capitalized.

Workgroup Action: Accept

Petition Number – 12 **Workgroup Action: Reject**

1301:7-9-07(F)(7)(b)

Submitter: Steven Thickstun, Modern American Safety Training, Inc.

Petition: (b) Recognized by an accredited third party to be proficient in performing the tightness testing method; ~~or~~ and

Substantiation: To require the next subparagraph (noted in another petition)

Workgroup Action: Reject

Workgroup Statement: Per SFM’s petition #2421, the state fire marshal permits three circumstances in which a person may perform tightness testing: 1) the person is recognized by the manufacturer of the tightness testing method; 2) the person is recognized by an third party who has been approved by the fire marshal; or 3) the person is recognized by the state fire marshal. The workgroup considers the fulfillment of one of these criteria to be sufficient.

Petition Number – 2421**Workgroup Action: Accept****1301:7-9-07(F)(7)(b)****Submitter:** Division of State Fire Marshal**Petition:** (7) All testing methods defined in paragraphs (F) to (F)(3)(a)(iii) of this rule shall be performed by a person who is:

- (a) Recognized by the manufacturer of the tightness testing method to be proficient in performing the testing method;
- (b) Recognized by an ~~accredited~~ third party approved by the state fire marshal to be proficient in performing the tightness testing method; or
- (c) Recognized by the state fire marshal to be proficient in performing the tightness testing method.

Substantiation: The SFM permits three circumstances in which a person may perform tightness testing: 1) the person is recognized by the manufacturer of the tightness testing method, 2) the person is recognized by an third party who has been approved by the state fire marshal, or 3) the person is recognized by the state fire marshal. The fulfillment of one of these criteria is sufficient. The word accredited is rescinded because criteria have not been established for the meaning of this word. Instead, the third party will be subject to the state fire marshal's approval.

Workgroup Action: Accept**Petition Number – 13****Workgroup Action: Reject****1301:7-9-07(F)(7)(c)****Submitter:** Steven Thickstun, Modern American Safety Training, Inc.**Petition:** (c) ~~Recognized by the fire marshal to be proficient in performing the tightness testing method~~ Licensed by the fire marshal as a Certified UST Installer.

Substantiation: BUSTR currently has little control over tightness testers. This change recognizes that tightness testers routinely perform actions that normally fall under the cognizance of UST Installers (modifying vents, opening and modifying product piping, working on the shear valve, etc), and perform functions requiring the presence of a CUSTI. Since our neighboring states require licensing of tightness testers, tank owners in Ohio are frequently sent testers who are new and not licensed elsewhere and who may have dubious credentials and experience and BUSTR has no recourse except against the unwitting tank owners who hire them.

Workgroup Action: Reject

Workgroup Statement: Per SFM's petition #2421, the state fire marshal permits three circumstances in which a person may perform tightness testing: 1) the person is recognized by the manufacturer of the tightness testing method; 2) the person is recognized by an third party who has been approved by the fire marshal; or 3) the person is recognized by the state fire marshal. While it is possible that tightness testers may occasionally adjust UST components while performing tightness tests, the minor nature of this activity does not warrant the requirement of tightness testers to be certified UST installers.

Petition Number – 24**Workgroup Action: Reject****1301:7-9-07(F)(7)(c)****Submitter:** Edsel Woolum, EMW UST Inspection Service**Petition:** (c) ~~Recognized by the fire marshal to be proficient in performing the tightness testing method.~~ Certified by the Fire Marshal as a Certified UST Installer.

Substantiation: This will permit BUSTR to control and regulate tank testers and take care of the problem of having tightness testers break the integrity of the containment system to perform their tests.

Workgroup Action: Reject

Workgroup Statement: Per SFM's petition #2421, the state fire marshal permits three circumstances in which a person may perform tightness testing: 1) the person is recognized by the manufacturer of the tightness testing method; 2) the person is recognized by an third party who has been approved by the fire marshal; or 3) the person is recognized by the state fire marshal. While it is possible that tightness testers may occasionally adjust UST components while performing tightness tests, the minor nature of this activity does not warrant the requirement of tightness testers to be certified UST installers.

RULE 8**Petition Number – 141****Workgroup Action: Accept In Principle****1301:7-9-08****Submitters:**

Petition	LName	FName	Company Name	City	State
141	Rhoads	Jennifer	OPMCA	Dublin	Ohio
423	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
442	Lykins	Jeff	The Lykins Companies	Milford	Ohio
695	Englefield	Ben	Englefield Oil Company	Heath	Ohio
950	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1367	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1756	Henderson	Barry	Ports Petroleum Co., Inc.	Wooster	Ohio
1874	Nye	David	Truenorth	Toledo	Ohio

Petition: Changes are incorporated in petitions on the BUSTR proposed revised OAC 1301:7-9-06 and 1301:7-9-07.

Substantiation: Changes are incorporated in petitions on the BUSTR proposed revised OAC 1301:7-9-06 and 1301:7-9-07.

Workgroup Action: Accept In Principle

Workgroup Statement: Petitioner makes a general statement that changes are incorporated in petitions already submitted for OAC 1301:7-9-06 and 1301:7-9-07. The workgroup responded to the petitions submitted for OAC 1301:7-9-06 and 1301:7-9-07, and by doing so, the workgroup affirms the statement of the petitioner. OAC 1301:7-9-08 addresses operating requirements for UST systems. In order to minimize confusion caused by numerous cross-references between BUSTR rules, the SFM transferred the existing operating requirements of OAC 1301:7-9-08 into draft rules OAC 1301:7-9-06 and 1301:7-9-07. By doing so, the SFM grouped both construction and operational requirements in the same rule and make it easier to understand the full range of requirements that apply to UST system components. As a consequence of this transfer, the requirements of OAC 1301:7-9-08 are now redundant and are no longer needed. The workgroup proposed by separate petition #2433, that OAC 1301:7-9-08 be rescinded.

Petition Number – 2433**Workgroup Action: Accept****1301:7-9-08**

Submitter: Division of State Fire Marshal

Petition: Rescind OAC 1301:7-9-08.

Substantiation: OAC 1301:7-9-08 addresses operating requirements for UST systems. The SFM transferred the existing operating requirements of OAC 1301:7-9-08 into draft rules OAC 1301:7-9-06 and 1301:7-9-07 to minimize confusion caused by numerous cross-references between BUSTR rules. In doing so, the SFM grouped both construction and operational requirements in the same rule to make it easier to understand the full range of requirements that apply to UST system components. As a consequence of this transfer, the requirements set forth in OAC 1301:7-9-08 are now duplicative and are rescinded.

Workgroup Action: Accept

RULE 18**Petition Number – 2432****Workgroup Action: Accept****1301:7-9-18**

Submitter: Division of State Fire Marshal

Petition: 1301:7-9-18 Delivery prohibition for underground storage tanks systems....

Substantiation: The SFM intends to be consistent with the Federal Guidelines and apply delivery prohibition to individual tanks at a site. Rescission of the word “system” after “underground storage tank” throughout O.A.C. 1301:7-9-18 (paragraphs (B) through (F)) clarifies that the SFM applies delivery prohibition to individual tanks, not the entire system.

Workgroup Action: Accept

Petition Number – 2431 **Workgroup Action: Accept**

1301:7-9-18(A)

Submitter: Division of State Fire Marshal

Petition: (A) Purpose and scope.

For the purpose of prescribing rules pursuant to section 3737.88 of the Revised Code, the state fire marshal hereby adopts this rule to establish delivery prohibition for underground storage tank (UST) systems containing regulated substances. This rule is adopted by the state fire marshal in accordance with Chapter 119. of the Revised Code and shall not be considered a part of the "Ohio Fire Code." The following underground storage tank systems are exempt from this rule:....

Substantiation: In all paragraphs of O.A.C. 1301:7-9-06, 1301:7-9-07, and 1301:7-9-18 “state” is inserted before “fire marshal” to avoid confusion between local officials and the state fire marshal.

Workgroup Action: Accept

Petition Number – 2440 **Workgroup Action: Accept**

1301:7-9-18(A)

Submitter: Division of State Fire Marshal

Petition: For the purpose of prescribing rules pursuant to section 3737.88 of the Revised Code, the fire marshal hereby adopts this rule to establish delivery prohibition for underground storage tank (UST) systems containing petroleum or other regulated substances.

Substantiation: The term 'petroleum or other regulated substances' is used in BUSTR Rules 1301:7-9-06 and 07 of the Administrative Code, and in order to maintain consistency, paragraph (A) of rule 1301:7-9-18 also should read in a similar manner. Delivery prohibition applies to BUSTR USTs containing regulated substances as defined in paragraph (B)(49) of rule 1301:7-9-02 of the Administrative Code and includes petroleum and hazardous substances. Adding 'petroleum or other' to paragraph (A) of this rule will not change which USTs or substances must comply with the rule.

Workgroup Action: Accept

Petition Number – 2423 **Workgroup Action: Accept**

1301:7-9-18(B)

Submitter: Division of State Fire Marshal

Petition: After the effective date of this rule, it shall be unlawful for any person to deliver to, deposit into, or accept a regulated substance into an underground storage tank ~~system at a site~~ which has been identified by the state fire marshal to be ineligible for such delivery, deposit, or acceptance pursuant to the issuance of an order by the state fire marshal in accordance with paragraph (D)(1) of this rule.

Substantiation: The additional language clarifies that a tank is determined to be ineligible upon issuance of the order by the SFM. The attachment of the red tag to a fill pipe is not the action by which the state fire marshal determines a tank is ineligible. The attachment of the red tag serves as notice that the tank is ineligible.

Workgroup Action: Accept

Petition Number – 543 **Workgroup Action: Accept In Principle**

1301:7-9-18(B)

Submitters:

Petition	LName	FName	Company Name	City	State
248	Rhoads	Jennifer	OPMCA	Dublin	Ohio
539	Lykins	Jeff	The Lykins Companies	Milford	Ohio
543	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
741	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1028	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1504	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1765	Henderson	Barry	Ports Petroleum Co., Inc.	Wooster	Ohio
1830	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1950	Nye	David	Truenorth	Toledo	Ohio
2300	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (B) – Revise as follows: (B) Delivery prohibition. After the effective date of this rule, it shall be unlawful for any person to deliver to, deposit into, or accept a regulated substance into an underground storage tank ~~system at a site~~ which has been identified by the fire marshal to be ineligible for such delivery, deposit, or acceptance by

issuance of an order and the placement of a red tag in accordance with paragraph (D) of this rule.

Substantiation: (1) The prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system. In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow: These five processes and procedures all specifically reference the underground storage tank. (2) The use of the term “site” is unnecessary since the location of an underground storage tank is irrelevant and by definition would be located at a UST site. If this redundancy is to be retained the defined term “UST site” should be used in place of “site”. (3) Finally, language has been added to make it clear that an order must be issued and a red tag placed on the underground storage tank before it is ineligible for delivery. In the case of a delivery company and as noted in Paragraph (E) of this rule, the delivery company would need to rely on both actions on the part of the fire marshal

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup intends to be consistent with the Federal Guidelines and apply delivery prohibition to individual tanks at a site. The workgroup accepts the petitioner’s rescission of the word “system at a site” after “underground storage tank.” The workgroup does not accept the petitioner’s proposal that a tank is deemed ineligible when both the fire marshal issues an order and the fire marshal or a designee attaches a red tag. The attachment of the red tag to a fill pipe is not the action by which the fire marshal determines a tank is ineligible. The attachment of the red tag serves as notice that the tank is ineligible. By separate petition #2423, the state fire marshal proposed the following language for (B): “After the effective date of this rule, it shall be unlawful for any person to deliver to, deposit into, or accept a regulated substance into an underground storage tank which has been identified by the fire marshal to be ineligible for such delivery, deposit, or acceptance pursuant to the issuance of an order by the state fire marshal in accordance with paragraph (D)(1) of this rule.”

Petition Number – 545

Workgroup Action: Accept In Principle

1301:7-9-18(C)(1)

Submitters:

Petition	LName	FName	Company Name	City	State
249	Rhoads	Jennifer	OPMCA	Dublin	Ohio
540	Lykins	Jeff	The Lykins Companies	Milford	Ohio
545	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
742	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1029	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1506	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1839	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1908	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1951	Nye	David	Truenorth	Toledo	Ohio
2301	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (C)(1) – Revise as follows: **(C) Identifying an ineligible underground storage tank systems.** (1) The fire marshal shall classify an underground storage tank ~~system~~ as ineligible for delivery, deposit, or acceptance of a regulated substance as soon as practicable after the fire marshal determines one or more of the following violations ~~conditions~~ exist: (a) Required spill prevention equipment is not installed pursuant to rule 1301:7-9-06 of the Ohio Administrative Code; (b) Required overfill ~~prevention protection~~ equipment is not installed pursuant to rule 1301:7-9-06 of the Ohio Administrative Code; (c) Required corrosion protection equipment is not installed pursuant to rule 1301:7-9-06 of the Ohio Administrative Code; or (d) Required ~~release leak~~ detection equipment is not installed pursuant to rule 1301:7-9-07 of the Ohio Administrative Code. ~~(e) Financial responsibility in the fund~~

Substantiation: (1) As noted in several other comments related to this rule, the prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system (See proposed changes to (C) title and (C)(1) of this rule). In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the underground storage tank. (2) The term “conditions” has been change to “violations” to make it clear that a violation must exist and to be consistent terminology used in other areas of this rule. (3) The terms “overfill protection” and “leak detection” have been change to “overfill prevention” and “release detection”, respectively to be consistent with the terminology used in other rules (See comments submitted for 1301:7-9-06 and 1301:7-9-07). (4) Finally, it is proposed that financial responsibility not be included in this paragraph as grounds for a mandatory red tag (i.e., delete paragraph (C)(1)(e). A certificate of coverage may not be issued or its issuance may be delayed for a number of reasons; many related to resolving administrative issues. It is difficult to identify a specific set of circumstances that would warrant an immediate red tag. For example, a single certificate of coverage is issued

for all underground storage tanks systems at a UST site as opposed to a certificate for each individual underground storage tank system. This would drive a red tag for all underground storage tanks at a UST site rather than an individual tank which may be the subject of the failure to obtain the certificate. The issuance of a certificate of coverage could take several months and ratification of the issuance by the Board must wait until a scheduled Board meeting. We believe that a delivery prohibition is better addressed through the issuance of a notice of violation as we have proposed in Paragraph (C)(2) of this rule.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup intends to be consistent with the Federal Guidelines and apply delivery prohibition to individual tanks at a site. The workgroup accepts the petitioner’s rescission of the word “system” after “underground storage tank.” By separate petition, #2432, this correction was made in all applicable sections of this rule. The workgroup declines the substitution of the word “conditions” with “violations” as the workgroup intends to be consistent with Federal Guidelines which use the word “conditions.” The workgroup accepts the substitution of “protection” with “prevention” and the substitution of “leak” with “release.” The workgroup cannot comment on the petitioner’s rescission of “(e) Financial Responsibility in the fund” as this language was not in the draft rule proposed by the SFM.

Petition Number – 44 **Workgroup Action: Accept In Principle**

1301:7-9-18(C)(2)

Submitters:

Petition	LName	FName	Company Name	City	State
44	Willman	Edward	Beck Suppliers, Inc.	Attica	Ohio
98	Cubberley	Alan	Mac's Convenience Stores LLC DBA Circle K	Akron	Ohio
208	Morgan	William	Collins Equipment	Cleveland	Ohio
250	Rhoads	Jennifer	OPMCA	Dublin	Ohio
341	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
343	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
351	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
541	Lykins	Jeff	The Lykins Companies	Milford	Ohio
547	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
743	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1030	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1081	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1147	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1197	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1254	White	James	BP	La Palma	California
1503	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1511	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1684	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1739	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1806	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1825	Gravius	Jamie	Campbell Oil Company	Massillon	Ohio
1847	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1910	Knott	Denny	Ney Oil Company	Ney	Ohio
1937	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1954	Nye	David	Truenorth	Toledo	Ohio
2063	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2131	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2302	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: Delete paragraph (C)(1)(e) and add new paragraph (C)(2)(e) and revise as follows: (2) The fire marshal may classify an underground storage tank system as ineligible for delivery, deposit, or acceptance of a regulated substance if the owner or operator of the underground storage tank system has been issued a written Notice of UST Violation for

any of the following violations, and the owner or operator fails to initiate ~~corrective action~~ to correct the violation within ~~sixty thirty (360)~~ days of the issuance of the Notice of UST Violation or files an appeal of the Notice of UST Violation: (a) Failure to properly operate or maintain spill prevention equipment pursuant to rule 1301:7-9-06 of the Ohio Administrative Code; (b) Failure to properly operate or maintain overfill ~~prevention protection~~ equipment pursuant to rule 1301:7-9-06 of the Ohio Administrative Code; (c) Failure to properly operate or maintain corrosion protection equipment pursuant to rule 1301:7-9-06 of the Ohio Administrative Code; or (d) Failure to properly operate or maintain ~~release leak~~ detection equipment pursuant to rule 1301:7-9-07 of the Ohio Administrative Code. (e) Failure to obtain a valid certificate of coverage from the Petroleum Underground Storage Tank Release Compensation Board pursuant to rule 1301:7-9-05(G)(1).

Substantiation: (1) The prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system. In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the underground storage tank. (2) The term corrective action is used in the BUSTR rules to refer to action taken to address a release from a UST system (Rule 1301:7-9-13). For clarity, this term should not be used to address an action taken to address a violation. (3) In some cases, thirty days may not be sufficient time for an owner or operator to address a violation considering availability of equipment and certified installers. Historically, BUSTR has allowed sixty days to address violations. Sixty days is recommended to allow the owner or operator sufficient time to correct violations. (4) An appeal of a Notice of Violation could take much longer than 60 days. If a Notice of Violation is appealed, the underground storage tank should not be red tagged for violations in this category until the appeal is resolved. (5) The terms “overfill protection” and “leak detection” have been change to “overfill prevention” and “release detection”, respectively to be consistent with the terminology used in other rules (See comments submitted for 1301:7-9-06 and 1301:7-9-07). (6) We are also proposing that a failure to obtain a certificate of coverage be identified as a specific violation for issuance of a red tag. By including financial responsibility in the paragraph rather than in paragraph (C)(1), this provides the tank owner or operator a Notice of Violation and the opportunity to obtain the certificate prior to prohibition of delivery.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup intends to be consistent with the Federal Guidelines and apply delivery prohibition to individual tanks at a site. The workgroup accepts the petitioner’s rescission of the word “system” after “underground storage tank.” By separate petition, #2432, this correction was made in all applicable sections of this rule. The workgroup also accepts the petitioner’s rescission of “corrective” and the addition of language “to correct the violation.” The workgroup accepts the petitioner’s proposal to extend the timeframe during which an owner/operator must correct a violation from thirty days to sixty days. However, the work group does not accept the addition of “or files an appeal of the Notice of UST Violation.” Petitioner’s language provides an automatic stay of the tank’s ineligibility to receive deliveries, deposit or acceptance of regulated substances. R.C. 3745.04, the statute that governs this situation, already expressly states “[t]he filing of an appeal does not automatically suspend or stay execution of the action appealed from.” Once an appellant files an appeal, the appellant may request the commission for a stay. The SFM is prohibited from promulgating a rule that conflicts with statute. The language the petitioner requests would conflict with this law and is therefore declined. The workgroup accepts the petitioner’s replacement of “protection” with “prevention” and the replacement of “leak” with “release.” Federal law (42 USCS § 6991b) requires owners/operators to demonstrate financial responsibility. In Ohio such responsibility is demonstrated by an owner/operator taking two steps. First, the owner/operator must obtain a valid certificate of coverage pursuant to R.C. 3737.91, the Petroleum underground storage tank financial assurance fund statute. Second, the owner/operator must demonstrate a valid deductible mechanism pursuant to the same statute. The Federal Guidelines list “financial responsibility” as a potential criterion for determining a tank’s ineligibility. The financial responsibility requirement is the primary violation found by inspectors when performing compliance inspections. In the event of a release, an owner/operator’s failure to maintain financial responsibility may result in the inability of the owner/operator to afford clean up costs. Failure to clean up a leak jeopardizes the health and welfare of Ohioans. Therefore, the workgroup accepts in principal petitioner’s proposed (e) with the exception of a technical language correction as follows: “(e) Failure to obtain a valid certificate of coverage from the Petroleum Underground Storage Tank Release Compensation Board pursuant to O.A.C. 1301:7-9-05(G)(1).” Further, the SFM added, by petition #2424, “(f) Failure to comply with the deductible coverage requirements described in paragraphs (H) to (H)(2) of O.A.C. 1301:7-9-5.”

Petition Number – 1141

Workgroup Action: Accept In Principle

1301:7-9-18(C)(2)

Submitter: Starr Richmond, Petroleum UST Release Compensation Board

Petition: The fire marshal may classify an underground storage tank system as ineligible for delivery, deposit, or

acceptance of a regulated substance if the owner or operator of the underground storage tank system has been issued a written Notice of UST Violation for any of the following violations, and the owner or operator fails ~~initiate corrective action~~ to take steps to correct the violation within thirty (30) days of the issuance of the Notice of UST Violation: (a) Failure to properly operate or maintain spill prevention equipment pursuant to rule 1301:7-9-6 of the Ohio Administrative Code; (b) Failure to properly operate or maintain overfill protection equipment pursuant to rule 1301:7-9-6 of the Ohio Administrative Code; (c) Failure to properly operate or maintain corrosion protection equipment pursuant to rule 1301:7-9-6 of the Ohio Administrative Code; ~~or~~ (d) Failure to properly operate or maintain leak detection equipment pursuant to rule 1301:7-9-7 of the Ohio Administrative Code; or (e) Failure to obtain a valid certificate of coverage in the fund from the petroleum underground storage tank release compensation board pursuant to rule 1301:7-9-05 of the Ohio Administrative Code.

Substantiation: (1) The term ‘corrective action’ is defined by rule 1301:7-9-02 (B)(14) and, therefore, applies to all rules within chapter 1301:7-9. The use of this term in rule 1301:7-9-18 (C)(2) is inconsistent with the definition. Therefore, language is proposed to change it from 'initiate corrective action' to 'take steps to correct the violation'. (2) Failure to demonstrate financial responsibility with the Fund should be a violation resulting in consideration for classifying the UST as ineligible for delivery, deposit, or acceptance of a regulated substance if the owner or operator of the UST has been issued a written Notice of UST Violation and has failed to take steps to correct the written violation within 30 days of issuance. Pursuant to both federal and state law, owners/operators must demonstrate financial responsibility for the costs to clean up petroleum releases. Participation in the Fund is not only mandatory in Ohio, but it is an affordable mechanism that helps to finance the costs of corrective action and thereby reduces the financial burden placed on owners/operators in complying with BUSTR’s regulations and in so doing, helps BUSTR to meet its mission of protecting human health and the environment.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup accepts in principal that the language regarding initiating corrective action can be more specific. The workgroup, per acceptance of petition # 44, changed the language to “fails to initiate action to correct the violation...” as the workgroup believes the latter language to be more concise. The workgroup accepts petitioner’s proposal that failure to obtain a valid certificate of coverage from the Petroleum Underground Storage Tank Release Compensation Board *may* be a violation for which the state fire marshal may classify a UST as ineligible. However, the workgroup, per acceptance of petition # 44, changed the language to “(e) Failure to obtain a valid certificate of coverage from the Petroleum Underground Storage Tank Release Compensation Board pursuant to O.A.C. 1301:7-9-05(G)(1).” In addition, the state fire marshal added, by petition #2424, “(f) Failure to comply with the deductible coverage requirements described in paragraphs (H) to (H)(2) of 1301:7-9-5.”

Petition Number – 1687

Workgroup Action: Accept In Principle

1301:7-9-18(C)(2)

Submitter: Karen Reese, FirstEnergy Corp

Petition: (2) The fire marshal may classify an underground storage tank ~~system~~ as ineligible for delivery, deposit, or acceptance of a regulated substance if the owner or operator of the underground storage tank system has been issued a written Notice of UST Violation for any of the following violations, and the owner or operator fails to initiate ~~corrective action~~ to correct the violation within ~~sixty thirty (30)~~ days of the issuance of the Notice of UST Violation or files an appeal of the Notice of UST Violation: (a) Failure to properly operate or maintain spill prevention equipment pursuant to rule 1301:7-9-~~06~~ of the Ohio Administrative Code; (b) Failure to properly operate or maintain overfill ~~prevention protection~~ equipment pursuant to rule 1301:7-9-~~06~~ of the Ohio Administrative Code; (c) Failure to properly operate or maintain corrosion protection equipment pursuant to rule 1301:7-9-~~06~~ of the Ohio Administrative Code; or (d) Failure to properly operate or maintain release ~~leak~~-detection equipment pursuant to rule 1301:7-9-~~07~~ of the Ohio Administrative Code.

Substantiation: (1) The prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system. In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the underground storage tank. (2) The term corrective action is used in the BUSTR rules to refer to action taken to address a release from a UST system (Rule 1301:7-9-13). For clarity, this term should not be used to address an action taken to address a violation. (3) In some cases, thirty days may not be sufficient time for an owner or operator to address a violation considering availability of equipment and certified installers. Historically, BUSTR has allowed sixty days to address violations. Sixty days is recommended to allow the owner or operator sufficient time to correct violations. (4) An appeal of a Notice of Violation could take much longer than 60 days. If a Notice of Violation is appealed, the underground storage tank should not be red tagged for violations in this category until the appeal is resolved. (5) The terms “overfill protection” and “leak detection” have been change to “overfill

prevention” and “release detection”, respectively to be consistent with the terminology used in other rules (See comments submitted for 1301:7-9-06 and 1301:7-9-07).

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup intends to be consistent with the Federal Guidelines and apply delivery prohibition to individual tanks at a site. The workgroup accepts the petitioner’s rescission of the word “system” after “underground storage tank.” By separate petition, #2432, this correction was made in all applicable sections of this rule. The workgroup also accepts the petitioner’s rescission of “corrective” and the addition of language “to correct the violation.” The workgroup accepts the petitioner’s proposal to extend the timeframe during which an owner/operator must correct a violation from thirty days to sixty days. The workgroup accepts the petitioner’s replacement of “protection” with “prevention” and the replacement of “leak” with “release.” However, the work group does not accept the addition of “or files an appeal of the Notice of UST Violation.” Petitioner’s language provides an automatic stay of the tank’s ineligibility to receive deliveries, deposit or acceptance of regulated substances. R.C. 3745.04, the governing statute in this situation, already expressly states “[t]he filing of an appeal does not automatically suspend or stay execution of the action appealed from.” Once an appellant files an appeal, the appellant may request a stay from the commission. The SFM is prohibited from promulgating a rule that conflicts with statute. The language the petitioner requests would conflict with this law and is therefore declined.

Petition Number – 2424

Workgroup Action: Accept

1301:7-9-18(C)(2)(f)

Submitter: Division of State Fire Marshal

Petition: (2) The state fire marshal may classify an underground storage tank ~~system~~ as ineligible for delivery, deposit, or acceptance of a regulated substance if the owner or operator of the underground storage tank ~~system~~ has been issued a written Notice of UST Violation for any of the following violations, and the owner or operator fails to initiate ~~corrective~~ action to correct the violation within ~~thirty sixty (360)~~ days of the issuance of the Notice of UST Violation: (a) Failure to properly operate or maintain spill prevention equipment pursuant to rule 1301:7-9-06 of the Ohio Administrative Code; (b) Failure to properly operate or maintain overfill prevention ~~protection~~ equipment pursuant to rule 1301:7-9-06 of the Ohio Administrative Code; (c) Failure to properly operate or maintain corrosion protection equipment pursuant to rule 1301:7-9-06 of the Ohio Administrative Code; (d) Failure to properly operate or maintain release leak detection equipment pursuant to rule 1301:7-9-07 of the Ohio Administrative Code; or (e) Failure to obtain a valid certificate of coverage from the Petroleum Underground Storage Tank Release Compensation Board pursuant to O.A.C. 1301:7-9-05(G)(1).

(f) Failure to comply with the deductible coverage requirements described in paragraphs (H) to (H)(2) of O.A.C. 1301:7-9-05.

Substantiation: Federal law requires owners/operators to demonstrate financial responsibility. In Ohio such responsibility is demonstrated by an owner/operator taking two steps. First, the owner/operator must obtain a valid certificate of coverage pursuant to R.C. 3737.91, the Petroleum underground storage tank financial assurance fund statute. Second, the owner/operator must demonstrate a valid deductible mechanism pursuant to the same statute. The Federal Guidelines list “financial responsibility” as a potential criterion for determining a tank’s ineligibility. The financial responsibility requirement is the primary violation found by inspectors when performing compliance inspections. In the event of a release, an owner/operator’s failure to maintain financial responsibility may result in the inability of the owner/operator to afford clean up costs. Failure to clean up a leak jeopardizes the health and welfare of Ohioans.

Workgroup Action: Accept

Petition Number – 1344

Workgroup Action: Reject

1301:7-9-18(D)

Submitter: Steven Thickstun, Modern American Safety Training, Inc.

Petition: (6) The delivery prohibition shall remain in effect during any portion of the appeal process initiated by the owner/operator.

Substantiation: Delivery prohibition becomes meaningless if it can be delayed or set aside by simply filing one or more appeals.

Workgroup Action: Reject

Workgroup Statement: The work group declines the petitioner’s language because in application it prohibits the provision of a stay of the tank’s ineligibility to receive deliveries, deposit or acceptance of regulated substances. R.C. 3745.04, the governing statute in this situation, already expressly states “[t]he filing of an appeal does not automatically suspend or stay execution of the action appealed from.” Once an appellant files an appeal, the appellant

may request a stay from the commission. BUSTR is prohibited from promulgating a rule that conflicts with statute. The language the petitioner requests would conflict with this law as it prohibits stays and is therefore not accepted.

Petition Number – 265 **Workgroup Action: Reject**

1301:7-9-18(D)

Submitters:

Petition	LName	FName	Company Name	City	State
46	Willman	Edward	Beck Suppliers, Inc.	Attica	Ohio
101	Cubberley	Alan	Mac's Convenience Stores LLC DBA Circle K	Akron	Ohio
209	Morgan	William	Collins Equipment	Cleveland	Ohio
265	Rhoads	Jennifer	OPMCA	Dublin	Ohio
345	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
355	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
558	Lykins	Jeff	The Lykins Companies	Milford	Ohio
1083	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1149	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1160	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1201	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1255	White	James	BP	La Palma	California
1505	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1544	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1691	Reese	Karen	FirstEnergy Corp	Akron	Ohio
1741	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1742	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1808	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1828	Gravius	Jamie	Campbell Oil Company	Massillon	Ohio
1913	Knott	Denny	Ney Oil Company	Ney	Ohio
1992	Schmitz	Art	Certified Oil Company	Columbus	Ohio
2001	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
2065	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2132	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2312	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: Add new paragraph (D)(6) as follows: (6) If an owner or operator has filed an appeal of an order issued in accordance with paragraph (D)(1) of this rule, the red tag shall not be attached in accordance with paragraph (D)(3) of this rule until the appeal has been resolved.

Substantiation: An appeal of a Notice of Violation could take much longer than 60 days. If a Notice of Violation is appealed, the underground storage tank should not be red tagged for violations in this category until the appeal is resolved. This change is proposed to be consistent with the proposed change in paragraph (C)(2) of this rule and to clarify that the red tag should not be placed on the tank if an appeal is in process.

Workgroup Action: Reject

Workgroup Statement: The work group rejects the petitioner’s language as it provides an automatic stay of the tank’s ineligibility to receive deliveries, deposit or acceptance of regulated substances. R.C. 3745.04, the governing statute in this situation, already expressly provides “[t]he filing of an appeal does not automatically suspend or stay execution of the action appealed from.” Once an appellant files an appeal, the appellant may request a stay from the commission. The SFM is prohibited from promulgating a rule that conflicts with statute. The language the petitioner requests would conflict with this law and is therefore declined.

Petition Number – 551**Workgroup Action: Reject****1301:7-9-18(D)(1)****Submitters:**

Petition	LName	FName	Company Name	City	State
42	Willman	Edward	Beck Suppliers, Inc.	Attica	Ohio
96	Cubberley	Alan	Mac's Convenience Stores LLC DBA Circle K	Akron	Ohio
207	Morgan	William	Collins Equipment	Cleveland	Ohio
251	Rhoads	Jennifer	OPMCA	Dublin	Ohio
339	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
346	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
542	Lykins	Jeff	The Lykins Companies	Milford	Ohio
551	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
744	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1031	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1075	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1143	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1194	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1253	White	James	BP	La Palma	California
1500	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1513	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1680	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1682	Reese	Karen	FirstEnergy Corp	Akron	Ohio
1737	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1805	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1859	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1907	Knott	Denny	Ney Oil Company	Ney	Ohio
1943	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1955	Nye	David	Truenorth	Toledo	Ohio
2061	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2129	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2303	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (D)(1) – Revise as follows: (D) Notification and red tag procedures. (1) If the fire marshal classifies an underground storage tank system as ineligible for delivery, deposit, or acceptance of a regulated substance pursuant to paragraph (C) of this rule, the fire marshal shall issue an order to the owner ~~or~~ and operator prior to prohibiting the delivery, deposit, or acceptance of a regulated substance. The order is considered properly served by the fire marshal in any of the following ways: (a) The order is personally delivered to the owner ~~or~~ and operator; or (b) The order is clearly posted at an entrance to the site where the underground storage tank system is located, and a copy of the order is also sent by certified mail to the last known address of the owner ~~or~~ and operator.

Substantiation: (1) As noted in several other comments related to this rule, the prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system (See proposed changes to (D)(1) of this rule). In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the underground storage tank. (2) The owner and operator may be two different entities with different responsibilities for the underground storage tank system. Any notice should be made to both parties since they can jointly or separately be held responsible for compliance or failure to comply (See proposed changes to (D)(1) and (D)(1)(b) of this rule). (3) An order should either be personally delivered or delivered by certified mail. The posting of the order at the UST site should not be considered a valid method of notice. Posting the notice does not guarantee that both the owner and the operator will see the notice of violation. (4) While the proposed revision deletes this language the “site where the underground storage tank system is located” is by definition the “UST site.”

Workgroup Action: Reject

Workgroup Statement: The workgroup intends to be consistent with the Federal Guidelines and apply delivery prohibition to individual tanks at a site. The workgroup accepts the petitioner’s rescission of the word “system” after

“underground storage tank.” By separate petition, #2432, this correction was made in all applicable sections of this rule. The workgroup does not accept petitioner’s addition of the word “and.” The requirements of the BUSTR and the Petroleum board Revised Code Chapters consistently use the terms “owner or operator” with respect to enforcement and notification actions. The workgroup intends to remain consistent with the Revised Code.

Petition Number – 2425 **Workgroup Action: Accept**

1301:7-9-18(D)(1)(b)

Submitter: Division of State Fire Marshal

Petition: (b) The order is clearly posted at an entrance to the site where the underground storage tank ~~system~~ is located, and a copy of the order is also sent by ~~certified~~ regular mail to the last known address of the owner or operator.

Substantiation: The Federal Guidelines do not require the notice of ineligibility, i.e. the order, to be sent certified. However, the federal guidelines require states to notice owner/operators as soon as practicable. Regular mail is the most expeditious manner of mailing correspondence and notices to owner/operators. A delay in the certified mail processing may result in a delay in the red tagging process. This would be contrary to the Federal Guidelines which require red tagging of ineligible tanks.

Workgroup Action: Accept

Petition Number – 554 **Workgroup Action: Accept In Principle**

1301:7-9-18(D)(2)

Submitters:

Petition	LName	FName	Company Name	City	State
252	Rhoads	Jennifer	OPMCA	Dublin	Ohio
544	Lykins	Jeff	The Lykins Companies	Milford	Ohio
554	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
745	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1033	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1522	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1942	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1947	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1956	Nye	David	Truenorth	Toledo	Ohio
2304	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (D)(2) – Revise as follows: (2) The written order described in paragraph (D)(1) of this rule shall include: (a) The specific reasons or violations that led to the ineligible classification; (b) A statement notifying the owner and operator that the underground storage tank ~~system~~ is ineligible for delivery and it is unlawful for any person to deliver to, deposit into, or accept a regulated substance into the underground storage tank system; (c) The effective date the underground storage tank ~~system~~ is deemed ineligible for delivery; (d) The name and address of the fire marshal representative to whom a written request for re-inspection can be made, if a re-inspection is necessary; and (e) A statement addressing the right to appeal the fire marshal’s order pursuant to paragraph (D) of section 3737.882 of the Revised Code.

Substantiation: As noted in several other comments related to this rule, the prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system (See proposed changes to (D)(2)(b) and (D)(2)(c) of this rule). In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the underground storage tank.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup intends to be consistent with the Federal Guidelines and apply delivery prohibition to individual tanks at a site. The workgroup accepts the petitioner’s rescission of the word “system” after “underground storage tank.” By separate petition, #2432, this correction was made in all applicable sections of this rule.

Petition Number – 555 **Workgroup Action: Accept In Principle**

1301:7-9-18(D)(3)

Submitters:

Petition	LName	FName	Company Name	City	State
253	Rhoads	Jennifer	OPMCA	Dublin	Ohio
546	Lykins	Jeff	The Lykins Companies	Milford	Ohio

555	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
746	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1036	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1525	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1945	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1953	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1958	Nye	David	Truenorth	Toledo	Ohio
2305	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: D)(3) – Revise as follows: (3) Once service of the order is complete pursuant to paragraph (D)(1) of this rule, the fire marshal shall perform the following procedures in order to attach a red tag to the fill pipe of the underground storage tank system and to clearly identifying to the public that the underground storage tank system that has been determined to be is ineligible for delivery or deposit:

Substantiation: If the objective is to prohibit delivery to an underground storage tank associated with a underground storage tank system that has been determined to be ineligible for delivery, then the red tag should be on the fill pipe of the underground storage tank so that a delivery driver knows the system has been red tagged. It is more important that the delivery driver is aware of the red tag to ensure that a delivery is not made to a red tagged underground storage tank. The only way to do this is to place the tag where the delivery driver is most likely to see it – on the fill pipe. It is not clear why there is a need to notify the public of the red tag since the product will be shut down once the underground storage tank is empty.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup accepts the petitioner’s language but prefers an alternative substantiation in part. In addition to the petitioner’s language, technical additions to make the rule consistent with the remaining paragraphs will be added as follows: (3) Once service of the order is complete pursuant to paragraph (D)(1) of this rule, the fire marshal shall perform the following procedures in order to attach a red tag to the fill pipe of the underground storage tank system that the fire marshal determined to be ineligible and to clearly identifying to the public that the underground storage tank system is ineligible for delivery, or deposit, or acceptance of a regulated substance: The workgroup agrees that the red tag should be on the fill pipe as this location will make the delivery driver aware that the tank has been tagged. Due to the location of the red tag, the public will most likely not be able to see the red tag within the spill bucket. The purpose of the red tag is to provide notice that the tank is not compliant with applicable regulations.

Petition Number – 557

Workgroup Action: Accept In Principle

1301:7-9-18(D)(3)(a)

Submitters:

Petition	LName	FName	Company Name	City	State
254	Rhoads	Jennifer	OPMCA	Dublin	Ohio
548	Lykins	Jeff	The Lykins Companies	Milford	Ohio
557	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
747	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1037	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1527	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1949	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1959	Nye	David	Truenorth	Toledo	Ohio
1966	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
2306	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (D)(3)(a) – Revise as follows: (a) ~~For UST sites with one or multiple underground storage tank systems, a~~ separate red tag shall be attached to each accessible fill pipe of each underground storage tank system ~~in violation of this rule~~ determined to be ineligible for delivery or deposit;

Substantiation: (1) Whether a UST site has one or more underground storage tank systems is not relevant. The red tag would be attached to the underground storage tank associated with the underground storage tank system that has been determined to be in violation. Does this paragraph as written suggest something different for a UST site with a single underground storage tank system? (2) As noted in several other comments related to this rule, the prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system. In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the

underground storage tank. Further, the red tag is to be placed on underground storage tanks that are determined to be ineligible in accordance with this rule rather than in violation of this rule. (3) While the proposed revision deletes this language the “site with one or multiple underground storage tank systems” is by definition the “UST site.”

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup accepts petitioner’s proposed changes in principal. However, the workgroup, by separate petition #2426, proposed the following language which is consistent with the remainder of the rule: (a) ~~For sites with one or multiple underground storage tank systems, A~~ a separate red tag shall be attached to each accessible fill pipe of each underground storage tank system ~~in violation of this rule~~ determined to be ineligible for delivery, deposit, or acceptance of a regulated substance; The main purpose of the red tag is to provide notice to the delivery driver that the tank is ineligible for delivery. Hence, it follows that the delivery driver would only attempt to deliver at fill pipes that are accessible. It is inherent in the act of attaching the tag, that the fill pipe is accessible. Therefore, the term “accessible” is not necessary and is rescinded per SFM petition, #2426.

Petition Number – 2426 **Workgroup Action: Accept**

1301:7-9-18(D)(3)(a)

Submitter: Division of State Fire Marshal

Petition: (a) ~~For sites with one or multiple underground storage tank systems, A~~ a separate red tag shall be attached to each accessible fill pipe of each underground storage tank system ~~in violation of this rule~~ determined to be ineligible for delivery, deposit, or acceptance of a regulated substance;

Substantiation: The main purpose of the red tag is to provide notice to the delivery driver that the tank is ineligible for delivery etc. Hence, it follows that the delivery driver would only attempt to deliver at fill pipes that are accessible. It is inherent in the act of attaching the tag, that the fill pipe is accessible. Therefore, the term “accessible” is not necessary and is rescinded.

Workgroup Action: Accept

Petition Number – 559 **Workgroup Action: Accept In Principle**

1301:7-9-18(D)(3)(b)

Submitters:

Petition	LName	FName	Company Name	City	State
256	Rhoads	Jennifer	OPMCA	Dublin	Ohio
549	Lykins	Jeff	The Lykins Companies	Milford	Ohio
559	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
748	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1038	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1530	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1957	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1960	Nye	David	Truenorth	Toledo	Ohio
1976	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
2307	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (D)(3) – Add new paragraph (D)(3)(b) as follows and renumber subsequent paragraphs accordingly:

(b) For a multiple compartment underground storage tank, the red tag shall only be attached to the fill pipe for the compartment containing the regulated substance associated with the violation resulting in the determination of ineligibility for the delivery or deposit;

Substantiation: BUSTR generally treats each compartment of a multiple compartment tank as separate underground storage tank for purposes of registration and reporting. In cases where a multiple compartment underground storage tank is used and separate fill pipes and piping runs (and possibly regulated substances) are associated with one or more compartments, then a red tag should only be associated with the portion of the compartment tank that is part of the underground storage tank system that was found to be in violation. Of course, if the underground tank itself is the subject of the violation, than each fill pipe on the compartment tank would be red tagged.

Workgroup Action: Accept In Principle

Workgroup Statement: BUSTR considers each compartment of a multi-compartment USTs to be a separate UST. Therefore, the workgroup accepts the petition in principal. However, the word “condition” shall be used to be consistent with Federal Guidelines and this rule. (f) For a multiple compartment UST, the red tag shall only be attached to the fill pipe of the compartment associated with the condition or violation which resulted in the compartment being determined ineligible for the delivery, deposit, or acceptance of a regulated substance. Because of other changes made to this subparagraph of the rule this language shall be renumbered (D)(3)(f).

Petition Number – 1981**Workgroup Action: Accept In Principle****1301:7-9-18(D)(3)(b)****Submitters:**

Petition	LName	FName	Company Name	City	State
258	Rhoads	Jennifer	OPMCA	Dublin	Ohio
550	Lykins	Jeff	The Lykins Companies	Milford	Ohio
560	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
749	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1531	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1961	Nye	David	Truenorth	Toledo	Ohio
1963	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1981	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
2308	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (D)(3)(b) -Revise as follows: (bc) The red tag shall include the following wording in at least 16 point type: “Delivery Prohibited. Delivering petroleum or other regulated substance to this underground storage tank ~~system~~, or removing, defacing, altering, or otherwise tampering with this tag may result in civil penalties of up to \$10,000 per day.”

Substantiation: As noted in several other comments related to this rule, the prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system (See proposed changes to (D)(1) of this rule). In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the underground storage tank. (2) This paragraph would be renumbered (D)(3)(c) if the proposed addition of the new paragraph (D)(3)(b) is accepted. Also, clarification is needed on the statutory authority of the fire marshal to issue a penalty to someone other than the owner or operator (e.g., delivery company) for failure to comply with this rule. Many deliveries are made by third parties or separately incorporated entities. In general, the rule seems to avoid this issue.

Workgroup Action: Accept In Principle

Workgroup Statement: The workgroup intends to be consistent with the Federal Guidelines and apply delivery prohibition to individual tanks at a site. The workgroup accepts the petitioner’s rescission of the word “system” after “underground storage tank.” By separate petition, #2432, this correction was made in all applicable sections of this rule. However, the workgroup rejects petitioner’s substantiation with respect to (D)(3)(b) and the request for clarification of the fire marshal’s authority. The state fire marshal is provided broad statutory authority with respect to BUSTR in R.C. 3737.88. The authority to penalize is not limited to owners or operators. As this authority is contained in statute, it does not need to be repeated in a rule. The renumbering of this section is as provided in the workgroup statement for petition #559.

Petition Number – 1915**Workgroup Action: Reject****1301:7-9-18(D)(3)(d)****Submitters:**

Petition	LName	FName	Company Name	City	State
47	Willman	Edward	Beck Suppliers, Inc.	Attica	Ohio
102	Cubberley	Alan	Mac’s Convenience Stores DBA Circle K	Akron	Ohio
211	Morgan	William	Collins Equipment	Cleveland	Ohio
347	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
359	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
1086	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1151	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1203	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1257	White	James	BP	La Palma	California
1508	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1688	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1698	Reese	Karen	FirstEnergy Corp	Akron	Ohio
1744	Schafer	Frank	Schafer Oil Company	Fort	Ohio

				Loramie	
1810	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1812	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1819	Gravius	Jamie	Campbell Oil Company	Massillon	Ohio
1915	Knott	Denny	Ney Oil Company	Ney	Ohio
2067	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2134	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2201	Wise	Raymond	Ravenna Oil Company	Ravenna	Ohio
2233	McPeek	Michael	Par Mar	Marietta	Ohio
2259	Santmeyer	Zach	Santmyer Oil Company	Wooster	Ohio

Petition: (d) The fire marshal shall maintain a list of all underground storage tanks ~~systems~~ that are classified as ineligible for delivery, deposit, or acceptance of a regulated substance. The fire marshal shall make updates to the list available to the public by posting the list on the fire marshal’s website. The ineligible underground storage tank list on the fire marshal’s website shall be updated once daily and time-stamped with the time the list was updated in a timely manner.

Substantiation: (1) The prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system. In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the underground storage tank. (2) Delivery scheduling can occur 24 hours in advance of the actual delivery. There needs to be a specific time in which a delivery company can be assured that the list is accurate through the previous day and rely on that list for scheduling a delivery. This does not eliminate the possibility that the delivery will arrive at the UST site and a red tag may be present on the tank fill pipe, but should minimize such an occurrence.

Workgroup Action: Reject

Workgroup Statement: The workgroup intends to be consistent with the Federal Guidelines and apply delivery prohibition to individual tanks at a site. The workgroup accepts the petitioner’s rescission of the word “system” after “underground storage tank.” By separate petition, #2432, this correction was made in all applicable sections of this rule. The workgroup does not accept petitioner’s proposal that an online list of red-tagged tanks be updated once daily and time stamped. The only notice required by Federal Guidelines is the notice of the red tag itself. In addition, the workgroup does not anticipate the frequency of red-tagging tanks to warrant a daily update. There may also be technology challenges that may prevent daily updating. Further, BUSTR may be contacted by phone or email during business hours to check if a tank has been red tagged. The workgroup acknowledges that a delivery driver may be in transit at the time the fire marshal posts notice online that the tank is ineligible for delivery. The presence of the red tag will suffice as notice to the delivery driver that the tank is ineligible. Once the tank has been listed on the SFM’s website, the delivery driver remains prohibited from making a delivery if the red tag has been removed. Federal Guidelines do not make exceptions for deliveries in transit. Permitting the delivery after the tank has been determined to be ineligible would be contrary to Federal Guidelines. Sufficient means exist for the delivery driver to ascertain the status of the tank even at the time the delivery is in transit.

Petition Number – 561 **Workgroup Action: Reject**

1301:7-9-18(D)(3)(e)

Submitters:

Petition	LName	FName	Company Name	City	State
259	Rhoads	Jennifer	OPMCA	Dublin	Ohio
552	Lykins	Jeff	The Lykins Companies	Milford	Ohio
561	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
750	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1153	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1534	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1962	Nye	David	Truenorth	Toledo	Ohio
1968	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1982	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
2309	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (D)(3)(d) – Revise as follows: ~~(d)~~ The fire marshal shall maintain a list of all underground storage tanks ~~systems~~ that are classified as ineligible for delivery, deposit, or acceptance of a regulated substance. The fire marshal

shall make updates to the list available to the public by posting the list on the fire marshal’s website. The ineligible underground storage tank list on the fire marshal’s website shall be updated once daily and time-stamped with the time the list was updated in a timely manner.

Substantiation: (1) As noted in several other comments related to this rule, the prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system. In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the underground storage tank. (2) Delivery scheduling can occur 24 hours in advance of the actual delivery. There needs to be a specific time in which a delivery company can be assured that the list is accurate through the previous day and rely on that list for scheduling a delivery. This does not eliminate the possibility that the delivery will arrive at the UST site and a red tag may be present on the tank fill pipe, but should minimize such an occurrence. (3) This paragraph would be renumbered (D)(3)(e) if the proposed addition of the new paragraph (D)(3)(b) is accepted.

Workgroup Action: Reject

Workgroup Statement: The workgroup intends to be consistent with the Federal Guidelines and apply delivery prohibition to individual tanks at a site. The workgroup accepts the petitioner’s rescission of the word “system” after “underground storage tank.” By separate petition, #2432, this correction was made in all applicable sections of this rule. The workgroup does not accept petitioner’s proposal that an online list of red-tagged tanks be updated once daily and time stamped. The only notice required by Federal Guidelines is the notice of the red tag itself. In addition, the workgroup does not anticipate the frequency of red-tagging tanks to warrant a daily update. There may also be technology challenges that may prevent daily updating. Further, BUSTR may be contacted by phone or email during business hours to check if a tank has been red tagged. Also, per petition #559, this rule section will be renumbered.

Petition Number – 2427

Workgroup Action: Accept

1301:7-9-18(D)(3)(e)

Submitter: Division of State Fire Marshal

Petition: (e) If an eligible UST is connected or manifolded to an ineligible UST, the state fire marshal will determine that both USTs are ineligible to receive delivery, deposit, or acceptance of a regulated substance for purposes of this rule, unless the eligible UST meets both of the following requirements: (i) the eligible tank is designed to receive a regulated substance through a means not connected, manifolded, or otherwise dependent on the ineligible tank; (ii) the eligible tank is prevented from delivering or receiving regulated substances to or from the ineligible tank;

Substantiation: There may be situations in which a compliant UST delivers or receives a regulated substance to or from an ineligible UST. The draft rule does not address this situation. To allow the compliant tank to continue to receive delivery through an ineligible tank would effectively allow the ineligible tank to remain in service contrary to the Federal Guidelines. The proposed language addresses this situation and provides guidance to the industry.

Workgroup Action: Accept

Petition Number – 563

Workgroup Action: Accept

1301:7-9-18(D)(4)

Submitters:

Petition	LName	FName	Company Name	City	State
261	Rhoads	Jennifer	OPMCA	Dublin	Ohio
553	Lykins	Jeff	The Lykins Companies	Milford	Ohio
563	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
751	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1155	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1536	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1964	Nye	David	Truenorth	Toledo	Ohio
1983	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1985	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
1987	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
2310	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (D)(4) – Revise as follows: (4) Owners or operators may continue to operate an underground storage tank system that is determined to be ineligible pursuant to paragraph (D)(1) of this rule until the underground storage tank system is empty. The ineligible underground storage tank system shall not receive delivery, deposit, or acceptance of a regulated substance during this time.

Substantiation: (1) As noted in several other comments related to this rule, the prohibition for delivery or deposit is

into the underground storage tank not the underground storage tank system. In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the underground storage tank. (2) the term “ineligible” has been added to clarify the underground storage tank must be determined and noticed as ineligible before deliveries are prohibited.

Workgroup Action: Accept

Petition Number – 565

Workgroup Action: Reject

1301:7-9-18(D)(5)

Submitters:

Petition	LName	FName	Company Name	City	State
48	Willman	Edward	Beck Suppliers, Inc.	Attica	Ohio
106	Cubberley	Alan	Mac's Convenience Stores LLC DBA Circle K	Akron	Ohio
212	Morgan	William	Collins Equipment	Cleveland	Ohio
263	Rhoads	Jennifer	OPMCA	Dublin	Ohio
348	Weglarz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
360	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
556	Lykins	Jeff	The Lykins Companies	Milford	Ohio
565	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
752	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1088	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1156	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1157	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1206	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1258	White	James	BP	La Palma	California
1512	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1540	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1689	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1699	Reese	Karen	FirstEnergy Corp	Akron	Ohio
1746	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1814	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1821	Gravius	Jamie	Campbell Oil Company	Massillon	Ohio
1918	Knott	Denny	Ney Oil Company	Ney	Ohio
1965	Nye	David	Truenorth	Toledo	Ohio
1988	Schmitz	Art	Certified Oil Company	Columbus	Ohio
1994	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
2070	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2135	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2203	Wise	Raymond	Ravenna Oil Company	Ravenna	Ohio
2234	McPeek	Michael	Par Mar	Marietta	Ohio
2260	Santmeyer	Zach	Santmyer Oil Company	Wooster	Ohio
2311	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (D)(5) – Revise as follows: (5) The classification of an underground storage tank system as ineligible shall remain in effect until the conditions cited in the order no longer exist as determined by the fire marshal. If the fire marshal determines that an ineligible underground storage tank system has returned to compliance and is now eligible for delivery, deposit, or acceptance of a regulated substance, the fire marshal or an authorized designee shall: (a) as soon as practicable, remove the red tag from the underground storage tank system as soon as practicable, but in no case longer than two (2) calendar days; and also or authorize in writing the removal of the red tag by the owner or operator or an installer certified pursuant to rule 1301:7-9-11 of the Administrative Code engaged by the owner or operator; (b) remove the underground storage tank system from the ineligible list and update the list posted on the fire marshal’s website as part of the daily update pursuant to paragraph (D)(3)(d) of this rule; and (c) The fire marshal will also send a written notice to the owner and operator that the ineligible storage tank system has returned to compliance and is now eligible for delivery, deposit, or acceptance of a regulated substance.

Substantiation: (1) This paragraph has been broken up into three paragraphs to make it clear that there are three criteria discussed – removal of the red tag, removal from the ineligible list, and written notice of compliance (See proposed changes to (D)(5) of this rule). (2) As noted in several other comments related to this rule, the prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system (See proposed changes to (D)(5) of this rule). In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the underground storage tank. In addition, the “term storage tank system” has been changed to “underground storage tank” to be consistent with terminology used in the rest of the rule (See proposed changes to (D)(5) of this rule). (3) There needs to be a commitment on the part of the state fire marshal to remove the red tag within a defined time period after its removal is determined. This can be accomplished by a specific time period (proposed as 2 calendar days) or by authorizing the owner or operator to remove the red tag base on receipt of written notice (See proposed changes to (D)(5)(a) of this rule). (4) As discussed in our comments to paragraph (D)(3)(d) of this rule, delivery scheduling can occur 24 hours in advance of the actual delivery. There needs to be a specific time in which a delivery company can be assured that the list is accurate through the previous day and rely on that list for scheduling a delivery. This does not eliminate the possibility that the delivery will arrive at the UST site and a red tag may be present on the tank fill pipe, but should minimize such an occurrence (See proposed changes to (D)(5)(b) of this rule). The proposed changes are intended to require an update made daily consistent with the changes proposed to paragraph (D)(3)(d) of this rule. In addition, the state fire marshal should consider creating a email mailing list to send notices to companies when the list is updated. The mailing list could be created by allowing those interested to sign up for the email notice on the state fire marshal web site. (5) The deletion of the phrase “The fire marshal will also” is to be consistent with the change to three paragraphs.

Workgroup Action: Reject

Workgroup Statement: The workgroup intends to be consistent with the Federal Guidelines and apply delivery prohibition to individual tanks at a site. The workgroup accepts the petitioner’s rescission of the word “system” after “underground storage tank.” By separate petition, #2432, this correction was made in all applicable sections of this rule. The workgroup accepts the insertion of “underground” before “storage tank.” The workgroup declines petitioner’s proposal that any person other than the state fire marshal or the state fire marshal’s designee may have the authority to remove a red tag upon the fire marshal determining a tank is compliant. The removal of the red tag is a significant and final step in the enforcement process and should be handled by the state fire marshal or the state fire marshal’s designee to ensure legal and appropriate removal of the tag. The workgroup agrees that upon determination of compliance, the tag should be removed as soon as practical and a removal timeframe should be provided in rule. However, the workgroup does not accept petitioner’s proposed timeframe of two calendar days. Upon the state fire marshal’s determination of compliance, the red tag should be removed from the fill tank as soon as practical and a removal timeframe should be provided in rule. Five business days allows time for scheduling issues and unexpected delays while providing a deadline for the removal. Further, the Federal Guidelines reference five business days as an example of a timeframe. The state fire marshal proposed by petition #2428 that the state fire marshal or the state fire marshal’s designee shall “(a) remove the red tag from the underground storage tank no later than five business days after the fire marshal determines that the underground storage tank is compliant.” This provides the state fire marshal with a deadline to remove the red tag while allowing time for delays. The workgroup does not accept petitioner’s proposal that an online list of red-tagged tanks be updated once daily and time stamped. The only notice required by Federal Guidelines is the notice of the red tag itself. In addition, the workgroup does not anticipate the frequency of red-tagging tanks to warrant a daily update. There may also be technology challenges that may prevent daily updating. Further, BUSTR may be contacted by phone or email during business hours to check if a tank has been red tagged.

Petition Number – 2428

Workgroup Action: Accept

1301:7-9-18(D)(5)

Submitter: Division of State Fire Marshal

Petition: (5) The classification of a underground storage tank ~~system~~ as ineligible shall remain in effect until the conditions cited in the order no longer exist as determined by the state fire marshal. If the state fire marshal determines that an ineligible underground storage tank ~~system~~ has returned to compliance and is now eligible for delivery, deposit, or acceptance of a regulated substance, the state fire marshal or an authorized designee shall do all of the following: (a) as soon as practicable, Rremove the red tag from the underground storage tank ~~system~~ no later than five business days after the state fire marshal determines that the underground storage tank is compliant; and (b) also Rremove the underground storage tank system from the ineligible list posted on the state fire marshal’s website; and (c) The fire marshal will also Ssend a written notice to the owner and or operator that the ineligible storage tank

system has returned to compliance and is now eligible for delivery, deposit, or acceptance of a regulated substance. **Substantiation:** Upon the SFM’s determination of compliance, the red tag should be removed from the fill tank as soon as practical and a removal timeframe should be provided in rule. Five business days allows time for scheduling issues and unexpected delays while providing a deadline for the removal. Further, the Federal Guidelines reference five business days as an example of a timeframe. The remaining changes are for formatting purposes.

Workgroup Action: Accept

Petition Number – 2128 **Workgroup Action: Reject**

1301:7-9-18(D)(6)

Submitter: Edsel Woolum, EMW UST Inspection Service

Petition: (6)Product delivery restrictions issued pursuant to 1301:7-9-18 shall remain in effect during the appeals process.

Substantiation: This will prevent owners from issuing appeals solely to delay having the repair or upgrade work done.

Workgroup Action: Reject

Workgroup Statement: The work group declines the petitioner’s language because in application it prohibits the provision of a stay of the tank’s ineligibility to receive deliveries, deposit or acceptance of regulated substances. R.C. 3745.04, the governing statute in this situation, already expressly states “[t]he filing of an appeal does not automatically suspend or stay execution of the action appealed from.” Once an appellant files an appeal, the appellant may request a stay from the commission. BUSTR is prohibited from promulgating a rule that conflicts with statute. The language the petitioner requests would conflict with this law as it prohibits stays and is therefore not accepted.

Petition Number – 567 **Workgroup Action: Reject**

1301:7-9-18(D)(6)

Submitters:

Petition	LName	FName	Company Name	City	State
567	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
753	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1686	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1967	Nye	David	Truenorth	Toledo	Ohio

Petition: (D) – Add new paragraph (D)(6) as follows: (6) If an owner or operator has filed an appeal of an order issued in accordance with paragraph (D)(1) of this rule, the red tag shall not be attached in accordance with paragraph (D)(3) of this rule until the appeal has been resolved.

Substantiation: An appeal of a Notice of Violation could take much longer than 60 days. If a Notice of Violation is appealed, the underground storage tank should not be red tagged for violations in this category until the appeal is resolved. This change is proposed to be consistent with the proposed change in paragraph (C)(2) of this rule and to clarify that the red tag should not be placed on the tank if an appeal is in process.

Workgroup Action: Reject

Workgroup Statement: The work group declines the petitioner’s language as it provides an automatic stay of the tank’s ineligibility to receive deliveries, deposit or acceptance of regulated substances. R.C. 3745.04, the governing statute in this situation, already expressly states “[t]he filing of an appeal does not automatically suspend or stay execution of the action appealed from.” Once an appellant files an appeal, the appellant may request a stay from the commission. BUSTR is prohibited from promulgating a rule that conflicts with statute. The language the petitioner requests would conflict with this law and is therefore not accepted.

Petition Number – 1317 **Workgroup Action: Reject**

1301:7-9-18(E)

Submitter: Steven Thickstun, Modern American Safety Training, Inc.

Petition: (1) Any person or company delivering or depositing regulated substances into an underground fuel storage system shall check the State Fire Marshal’s Web Site for potential delivery prohibitions daily for regularly scheduled deliveries and immediately prior to the delivery for emergency or non-scheduled deliveries. Any person delivering or depositing regulated substances into an ineligible underground storage tank system shall be in violation of paragraph (B) of this rule unless both of the following conditions can be demonstrated:

Substantiation: Allowing time to elapse between red-tagging the fill and posting the delivery prohibition gives the offending owner the opportunity to (1) temporarily remove the red tag and (2) call for an emergency fuel delivery from his supplier. By requiring that the deliverer check the web-site immediately prior to an emergency or unscheduled delivery it may prevent delivery to a non-conforming UST system. Giving a 24-hour or longer delay will compound this potential problem. The entire fill-adaptor system is easily removed and replaced by anyone who

should wish to circumvent the delivery prohibition to permit his tank to be topped off for one last time.

Workgroup Action: Reject

Workgroup Statement: The only notice required by Federal Guidelines that a tank is ineligible is the notice of the red tag itself. The workgroup does not accept the proposal that a BUSTR rule mandate that the delivery driver check the state fire marshal website. The owner or operator may require the delivery driver to confirm the UST status with BUSTR.

Petition Number – 2010

Workgroup Action: Reject

1301:7-9-18(E)

Submitters:

Petition	LName	FName	Company Name	City	State
49	Willman	Edward	Beck Suppliers, Inc.	Attica	Ohio
107	Cubberley	Alan	Mac's Convenience Stores DBA Circle K	Akron	Ohio
213	Morgan	William	Collins Equipment	Cleveland	Ohio
267	Rhoads	Jennifer	OPMCA	Dublin	Ohio
349	Weglaz	Edward	Associated Food & Petroleum Dealers	Dublin	Ohio
361	Stipp	Mike	District Petroleum Products, Inc.	Huron	Ohio
562	Lykins	Jeff	The Lykins Companies	Milford	Ohio
569	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
754	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1092	Stephenson	Thomas	Stephenson Oil Company	Hamilton	Ohio
1158	Slattery Starrett	Ricki	Slattery Oil Co., Inc.	Hicksville	Ohio
1163	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1209	Rohrbaugh	William	Town & Country Co-op, Inc.	Ashland	Ohio
1259	White	James	BP	La Palma	California
1515	Vincer	Robin	Ullman Oil	Chagrin Falls	Ohio
1546	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1690	Witt	T.	Hi-Grade Oil Company	Sidney	Ohio
1700	Reese	Karen	FirstEnergy Corp	Akron	Ohio
1749	Schafer	Frank	Schafer Oil Company	Fort Loramie	Ohio
1802	Gravius	Jamie	Campbell Oil Company	Massillon	Ohio
1816	Kister	Nancy	O & P Oil & Gas, Inc.	Andover	Ohio
1923	Knott	Denny	Ney Oil Company	Ney	Ohio
1969	Nye	David	Truenorth	Toledo	Ohio
1999	Schmitz	Art	Certified Oil Company	Columbus	Ohio
2010	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
2073	Armentrout	Gary	Jack A. Allen Inc.	Steubenville	Ohio
2137	Gilligan	Patrick	Gilligan Oil Company	Cincinnati	Ohio
2206	Wise	Raymond	Ravenna Oil Company	Ravenna	Ohio
2235	McPeck	Michael	Par Mar	Marietta	Ohio
2261	Santmeyer	Zach	Santmyer Oil Company	Wooster	Ohio
2313	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (E) - Revise as follows: (1) Any person delivering or depositing regulated substances into an ineligible underground storage tank system shall be in violation of paragraph (B) of this rule unless both of the following conditions can be demonstrated: (a) The delivery or deposit was made within 24 hours of checking the list prior to notice of the ineligible underground storage tanks being posted on the fire marshal's web site as described in paragraph (D)(3)(d) of this rule and determining that the underground storage tank was not included on the list; and (b) The red tag was not affixed to the fill pipe at the time of delivery or deposit.

Substantiation: Deliveries can be scheduled as much as 24 hours in advanced of the actual delivery to the underground storage tank. In many cases, the delivery transport will be scheduled for multiple stops during a workday that may involve pick-up at multiple terminals and deliveries to multiple UST sites. Delivery companies cannot realistically be checking a list prior to the actual departure from the terminal of a delivery transport. This proposal would require a time stamp when the list is updated and documentation by the delivery company of the time that the

list was checked. This would allow for additions to the list after a delivery has been dispatched. If the driver were to arrive at the UST site and a red tag was in place, the delivery would not be made. If the red tag was not in place and the list was checked within 24 hours before the delivery was dispatched, then the delivery company would not be responsible for delivery into a tank that may have been illegible.

Workgroup Action: Reject

Workgroup Statement: The workgroup acknowledges that a delivery driver may be in transit at the time the Fire Marshal posts notice that the tank is ineligible for delivery. The presence of the red tag will suffice as notice to the delivery driver that the tank is ineligible. Once the tank has been listed on the SFM’s website, the delivery driver remains prohibited from making a delivery if the red tag has been removed. Federal Guidelines do not make exceptions for deliveries in transit. Permitting the delivery after the tank has been determined to be ineligible, even within 24 hours of such determination and online notice, would be contrary to Federal Guidelines. Sufficient means exist for the delivery driver to ascertain the status of the tank even at the time the delivery is in transit. Hence, there is no need for a 24 hour window.

Petition Number – 571 **Workgroup Action: Accept**

1301:7-9-18(F)(2)

Submitters:

Petition	LName	FName	Company Name	City	State
269	Rhoads	Jennifer	OPMCA	Dublin	Ohio
564	Lykins	Jeff	The Lykins Companies	Milford	Ohio
571	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
755	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1167	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1549	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1970	Nye	David	Truenorth	Toledo	Ohio
2004	Schmitz	Art	Certified Oil Company	Columbus	Ohio
2014	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
2314	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (F)(2) – Revise as follows: (2) The fire marshal may delay the classification of an underground storage tank system as ineligible for delivery, deposit or acceptance of regulated substances if the fire marshal determines that prohibiting delivery to the underground storage tank system would jeopardize health and safety or the availability of fuel to the community.

Substantiation: As noted in several other comments related to this rule, the prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system. In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the underground storage tank. Also, a grammatical correction is noted.

Workgroup Action: Accept

Petition Number – 2012 **Workgroup Action: Accept**

1301:7-9-18(F)(3)

Submitters:

Petition	LName	FName	Company Name	City	State
270	Rhoads	Jennifer	OPMCA	Dublin	Ohio
566	Lykins	Jeff	The Lykins Companies	Milford	Ohio
573	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
756	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1170	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1550	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1971	Nye	David	Truenorth	Toledo	Ohio
2012	Schmitz	Art	Certified Oil Company	Columbus	Ohio
2025	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
2213	Reese	Karen	FirstEnergy Corp	Akron	Ohio
2315	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (F) – Add new paragraph (F)(3) and renumber subsequent paragraphs as required: (3) The fire marshal may

allow the delivery, deposit or acceptance of regulated substances into an underground storage tank determined to be ineligible for purposes of testing and other activities required to comply with an order pursuant to paragraph (D)(1) of this rule.

Substantiation: Comment – There needs to be provisions in this rule to allow a delivery into an illegible underground storage tank for testing or other activities associated with repairs or modifications made to address violations.

Workgroup Action: Accept

Petition Number – 2033

Workgroup Action: Accept

1301:7-9-18(F)(3)

Submitters:

Petition	LName	FName	Company Name	City	State
272	Rhoads	Jennifer	OPMCA	Dublin	Ohio
568	Lykins	Jeff	The Lykins Companies	Milford	Ohio
574	Backo	Paul	Ohio Petroleum Contractors Association	Powell	Ohio
757	Englefield	Ben	Englefield Oil Company	Heath	Ohio
1173	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1174	Patneau, Jr.	James	Free Enterprises Inc.	Medina	Ohio
1553	Ullman	Kim	Ullman Oil	Chagrin Falls	Ohio
1972	Nye	David	Truenorth	Toledo	Ohio
2016	Schmitz	Art	Certified Oil Company	Columbus	Ohio
2033	Henderson	Barry	Ports Petroleum Co., Inc	Wooster	Ohio
2316	Wirt	Earnest	American Electric Power Company	Columbus	Ohio

Petition: (F)(3) -Revise as follows: (~~34~~) Nothing in this rule shall affect or preempt the authority of the fire marshal or any other authority with jurisdiction to prohibit the delivery, deposit, or acceptance of a regulated substance to an underground storage tank ~~system~~ under other existing regulations.

Substantiation: As noted in several other comments related to this rule, the prohibition for delivery or deposit is into the underground storage tank not the underground storage tank system. In the USEPA delivery prohibition guidance, USEPA notes that the Section 9012 of the Energy Policy Act identifies five processes and procedures that a state must follow. These five processes and procedures all specifically reference the underground storage tank. This paragraph would be renumbered (F)(4) if the proposed addition of the new paragraph (F)(3) is accepted.

Workgroup Action: Accept

Appendix A

1301:7-9-06 Design, construction, installation, operation and maintenance for UST systems

(A) Purpose and scope.

For the purpose of prescribing rules pursuant to section 3737.88 of the Revised Code, the state fire marshal hereby adopts this rule to establish design, construction, installation, operation and maintenance requirements for underground storage tanks (UST) containing petroleum or other regulated substances. This rule is adopted by the state fire marshal in accordance with Chapter 119. of the Revised Code and shall not be considered a part of the "Ohio Fire Code." The following UST systems are exempted from this rule:

- (1) Wastewater treatment tank systems;
- (2) Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 U.S.C.A. 2014 and following);
- (3) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the United States nuclear regulatory commission;
- (4) Airport hydrant fuel distribution systems; and
- (5) UST systems with field constructed tanks.

(B) Performance standards for new UST systems.

(1) New UST systems shall be provided with secondary containment for the UST and underground piping that routinely contains regulated substances to completely contain a release of a regulated substance and prevent a release of a regulated substance to the environment at any time during the operational life of the UST system pursuant to the following requirements:

~~(a)~~ New USTs shall be double-wall ~~and shall have full secondary containment~~ and shall be equipped, operated and maintained pursuant to paragraphs (D)(1) and (D)(2) of this rule;

~~(b)~~ Underground piping that routinely contains regulated substances that is part of a new UST system shall be double-wall ~~and shall have full secondary containment~~ and shall be equipped, operated and maintained pursuant to paragraphs (D)(3) and (D)(4) of this rule except that:

~~(bi)~~ Underground piping that conveys petroleum under suction is not required to be equipped to meet the secondary containment requirements of paragraph (B)(~~12~~)(b) of this rule; and

~~(bii)~~ A manifold that conveys petroleum under suction between tanks is not required to be equipped to meet the secondary containment requirements of paragraph (B)(~~12~~)(b) of this rule.

~~(3c)~~ ~~Containments that are part of a n~~New UST systems shall be equipped with containments and; operated; and maintained pursuant to paragraphs (D)(5) and (D)(6) of this rule and shall be present at the following locations:

~~(ci)~~ In those areas where piping that routinely contains regulated substances exits the UST;

~~(cii)~~ In those areas where piping that routinely ~~contains~~ regulated substances transitions from underground to above ground;

~~(ciii)~~ In those areas where a transition sump is required to maintain the proper slope of piping that routinely contains regulated substances; and

~~(civ)~~ In those areas under each motor fuel dispenser.

~~(4) No other containment equipment is required on new UST systems except for spill containment as described in paragraph (B)(7) of this rule.~~

~~(5) All secondary containment systems that are part of new UST systems shall be equipped pursuant to the following:~~

~~(a) Secondary containment systems shall completely contain release of regulated substances from the UST system until they are detected and removed; and~~

~~(b) Secondary containment systems shall prevent the release of regulated substances into the environment at any time during the operational life of the UST system.~~

~~(6d) Other methods of secondary containment, such as vaults, external liners and jackets, may be used if owners and/or operators:~~

~~(ai) Demonstrate to the state fire marshal that the alternative method of secondary containment is as least as protective of human health and the environment as those methods described in paragraphs (B)(1) through (B)(3)(d) of this rule; and~~

~~(bii) Obtain written approval from the state fire marshal to use the alternative method of secondary containment before installation and operation of the new UST system. The state fire marshal may approve, deny or rescind the method at the state fire marshal's discretion. If the alternative method of secondary containment is approved by the state fire marshal, the owner and operator shall comply with any conditions imposed by the state fire marshal on its use. The alternative method request shall be evaluated on a site by site basis.~~

~~(7e) New UST systems shall be equipped with spill prevention equipment and overflow prevention equipment protection pursuant to paragraph (D)(7) of this rule.~~

~~(8f) If an owner and/or operator elects to equip an UST system in a manner that exceeds the requirements of this rule, the owner and/or operator is only required to maintain the UST system to the extent required by this rule.~~

(C) Performance standards for existing UST systems.

(1) Existing USTs shall be equipped, operated and maintained pursuant to paragraphs (D)(1) and (D)(2) of this rule except that:

(a) Existing USTs installed prior to the effective date of this rule are not required to be equipped to meet the new UST secondary containment requirements of paragraph (B)(1) of this rule unless the USTs undergo work pursuant to paragraph (C)(7)(a) of this rule; and

(b) The addition of internal lining in the field to an existing metal UST system to meet cathodic protection requirements is prohibited unless owners and/or operators obtain written approval from the state fire marshal prior to the application of the internal lining. The state fire marshal shall no longer grant approval pursuant to this paragraph as of twelve months after the effective date of this rule. The addition of internal lining in the field to UST systems for purposes other than for cathodic protection is allowed provided that owners and/or operators comply with the Ohio Fire Code and give written notice to the state fire marshal prior to the application of the internal lining. Owners and operators shall comply with any conditions imposed by the state fire marshal on the use of internal lining.

(2) Existing underground piping that routinely contains regulated substances shall be equipped, operated and maintained pursuant to the new piping requirements defined in paragraph (B)(~~21~~)(b) through (B)(~~21~~)(b)(~~ii~~) and paragraphs (D)(3) and (D)(4) of this rule except that:

(a) Existing underground piping associated with UST systems installed prior to March 1, 2005, is not required to be equipped to meet secondary containment requirements of paragraph (B)(2) of this rule except those piping

components undergoing work pursuant to paragraph (C)(7)(b) of this rule;

(b) Existing underground piping that conveys petroleum under suction is not required to be equipped to meet secondary containment requirements of paragraph (B)(2) this rule;

(c) Existing suction manifolds between tanks are not required to be equipped to meet the secondary containment requirements of paragraph (B)(2) of this rule; and

(d) Existing UST systems installed prior to March 1, 2005, are not required to be equipped with isolation valves between the piping and the tank as described in paragraph (D)(3)(b) of this rule.

(3) Existing UST systems shall be equipped, operated and maintained with containments as specified in paragraphs (D)(5) and (D)(6) of this rule except that:

(a) Existing UST systems installed prior to March 1, 2005, are not required to be equipped with containments except for those UST systems undergoing work pursuant to paragraph (C)(7)(c) of this rule.

(4) Existing UST systems shall be equipped with spill prevention equipment and overfill prevention equipment meeting the requirements of paragraph (D)(7) of this rule except that:

(a) Existing UST systems installed prior to March 1, 2005, that were filled with transfers of no more than twenty-five gallons at one time are not required to be equipped to meet the spill and overfill requirements of this rule except USTs undergoing work pursuant to paragraph (C)(7)(a) of this rule; and

(b) Existing UST systems installed prior to March 1, 2005, are not required to be equipped with extractor float vent valves as part of overfill prevention as described in paragraph (D)(7)(b) of this rule except USTs undergoing work pursuant to paragraph (C)(7)(a) of this rule.

(5) Existing UST systems containing hazardous substances as defined in rule 1301:7-9-03 of the Administrative Code shall be equipped, operated and maintained pursuant to the new UST system requirements defined in paragraph (B) of this rule except that:

(a) Existing UST systems installed prior to March 1, 2005, are not required to be equipped with containments in all of the locations described in paragraph (B)(3)(c) of this rule. UST systems shall have sufficient containments to demonstrate that the UST system is fully secondarily contained;

(b) Existing UST systems installed prior to March 1, 2005, are not required to be equipped with isolation valves between the piping and the tank pursuant to paragraph (D)(3)(b) of this rule;

(c) Existing UST systems installed prior to March 1, 2005, are not required to be equipped with extractor valves as part of overfill prevention pursuant to paragraph (D)(7)(b) of this rule;

(d) Existing UST systems installed prior to March 1, 2005, that are filled with transfers of no more than twenty-five gallons at one time are not required to be equipped to meet the spill and overfill requirements of paragraph (D)(7) of this rule; and

(e) Existing underground piping and manifolds that convey hazardous substance under suction shall be equipped with full secondary containment pursuant to paragraph (B)(2) of this rule.

(6) Existing UST systems located in sensitive areas as defined in rule 1301:7-9-09 of the Administrative Code shall be equipped, operated and maintained pursuant to the new UST system requirements defined in paragraph (B) of this rule except that:

(a) Existing UST systems installed prior to March 1, 2005, are not required to be equipped with containments in all of the locations described in paragraph (B)(1)(c) of this rule. UST systems shall have sufficient containments to demonstrate that the UST system is fully secondarily contained;

(b) Existing UST systems that were internally lined but were not equipped with supplemental cathodic protection systems shall be taken out of service no later than twelve months after the effective date of this rule, unless the UST system is modified to meet the cathodic protection requirements of paragraphs (D)(1) through (D)(2)(d)(iv)(b) of this rule,

(c) Existing UST systems installed prior to March 1, 2005, are not required to be equipped with isolation valves between the piping and the tank pursuant to paragraph (D)(3)(b) of this rule;

(d) Existing UST systems installed prior to March 1, 2005, are not required to be equipped with extractor float vent valves as part of overfill prevention pursuant to paragraph (D)(7)(b) of this rule;

(e) Existing UST systems installed prior to March 1, 2005, that were filled with transfers of no more than twenty-five gallons at one time are not required to be equipped to meet the spill and overfill requirements of paragraph (D)(7) of this rule.

(f) Existing UST systems that were installed in sensitive areas before the effective dates listed in paragraphs (C) to (E) of rule 1301:7-9-09 of the Administrative Code shall be equipped, operated and maintained pursuant to the existing UST requirements of paragraph (C)(1) through (C)(4)(b) of this rule.

(7) Any work performed on an existing UST system that requires a permit pursuant to rule 1301:7-9-10 of the Administrative Code or as otherwise provided in this paragraph, shall meet the following requirements:

(a) ~~If work that causes an existing UST to be replaced, moved or shifted from its bedding shall require the UST and all piping, and containments and ancillary equipment associated with the UST to shall be equipped, operated and maintained pursuant to the new UST system secondary containment requirements defined in paragraph (B) of this rule;~~

(b) ~~Work~~ If piping is installed, replaced, modified, or undergoes major repair that affects more than fifty percent (50%) of an existing piping run measured as the length of the pipe between the connection at the UST and the furthest dispenser or use located associated with the UST connection that routinely contains regulated substances, then shall require the piping and associated containments shall to be equipped, operated and maintained pursuant to the new piping and containment requirements defined in paragraphs (B)(1)(b) and (B)(1)(c) of this rule; and

~~(c) If a motor fuel dispensing system is installed at an existing site and work is also performed on the piping, flex connector or shear valve associated with the dispenser, then the fuel dispensing system shall be equipped, operated and maintained pursuant to the new containment requirements defined in paragraph (B)(3) of this rule.~~

(c) If a new motor fuel dispenser is installed where there previously was no motor fuel dispenser at an existing UST site then a new containment shall be installed pursuant to paragraph (B)(1)(c) of this rule.

(d) If an existing motor fuel dispenser is replaced with another motor fuel dispenser and the piping, flex connector or shear valve is also replaced then a new containment shall be installed pursuant to paragraph (B)(1)(c) of this rule, except when the piping, flex connector, or shear valve is being replaced but the existing motor fuel dispenser is not being replaced.

(8) If an owner and/or operator elects to equip a UST system in a manner that exceeds the requirements of this rule, the owner and/or operator is only required to maintain the UST system to the extent required by this rule.

(D) Design, construction, operation and maintenance of UST systems.

(1) USTs shall be designed and constructed pursuant to one of the following:

(a) The tank is constructed of fiberglass-reinforced plastic in compliance with "Underwriters Laboratories Standard 1316-94; Standard for Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products";

(b) The tank is constructed of metal in compliance with "Underwriters Laboratories Standard 58-96; Standard for Steel Underground Tanks for Flammable and Combustible Liquids," coated with a suitable dielectric material and cathodically protected using:

(i) Field-installed cathodic protection systems that are designed by a corrosion expert; or

(ii) The tank and cathodic protection system comply with the requirements of one of the following:

(a) "Underwriters Laboratories Standard 1746-~~93~~2007; External Corrosion Protection Systems for Steel Underground Storage Tanks";

(b) "National Association of Corrosion Engineers Standard RP-0285-02; Corrosion Control of Underground Storage Tank Systems by Cathodic Protection"; or

(c) "Steel Tank Institute Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks" and related Steel Tank Institute specifications.

(c) The tank is constructed of a steel-fiberglass-reinforced-plastic composite in compliance with "Underwriters Laboratories Standard 1746-~~93~~ 2007; Corrosion Protection Systems for Underground Storage Tanks" or "Steel Tank Institute STI-F894; Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks" and related Steel Tank Institute specifications.

~~(d) The addition of internal lining in the field to a metal UST system to meet cathodic protection requirements is prohibited unless owners and/or operators obtain written approval from the fire marshal prior to the application of the internal lining. The addition of internal lining in the field to UST systems for purposes other than for cathodic protection is allowed provided that owners and/or operators comply with the Ohio Fire Code and give written notice to the fire marshal prior to the application of the internal lining. Owners and/or operators shall comply with any conditions imposed by the fire marshal on the use of internal lining.~~

(2) USTs shall be operated and maintained pursuant to all of the following:

(a) Owners and/or operators shall use UST system components that are compatible with the regulated substance stored in the UST system.

(b) If the UST system is used to store alcohol blends, the owner and/or operator shall ensure compatibility by complying with the following applicable standards:

(i) American Petroleum Institute Publication 1626-2000; Storing and Handling Ethanol and Gasoline-ethanol Blends at Distribution Terminals and Service Stations"; and

(ii) Petroleum Institute Publication 1627-2000; Storage and Handling of Gasoline-methanol/cosolvent Blends at Distribution Terminals and Service Stations."

(c) Owners and operators shall inspect all accessible UST and piping components at least once a year for evidence of degradation and shall correct any deficiencies that could cause a release or prevent release detection equipment from working properly. At a minimum, USTs and piping shall be monitored for any visible corrosion, peeling, cracking or excessive distortion of the UST and piping components.

- (d) Operation and maintenance of corrosion protection;
- (i) All corrosion protection systems shall be operated and maintained to continuously provide corrosion protection ~~to the metal components of those portion of the tank and piping that routinely contain regulated substances and are in contact with the ground or frequently submerged in water.~~
- (ii) All UST systems equipped with cathodic protection systems shall be inspected for proper operation by a qualified cathodic protection tester in compliance with the following requirements:
- (a) All cathodic protection systems shall be tested within six months of installation and at least every three years thereafter; and
- (b) The criteria to determine that cathodic protection is adequate shall be pursuant to "National Association of Corrosion Engineers Standard RP-0285-02; Corrosion Control of Underground Storage Tank Systems by Cathodic Protection".
- (iii) UST systems with impressed current cathodic protection systems shall be inspected every sixty days by the owner and/or operator to ensure that the equipment is operating properly.
- (iv) For UST systems using cathodic protection, records of the inspections of the cathodic protection system shall be maintained in compliance with this chapter to demonstrate compliance with the standards in paragraphs (D)(1) and (D)(2) of this rule. These records shall provide the following:
- (a) The results of testing from the last two inspections required in paragraph (D)(2)(d)(ii)(a) of this rule; and
- (b) The results of the last six inspections required by paragraph (D)(2)(d)(iii) of this rule.
- (e) UST systems internally lined to meet cathodic protection requirements shall comply with the following:
- (i) Within ten years after lining, and every five years thereafter, the lined tank shall be internally inspected to determine if it is structurally sound with the lining still performing in accordance with "American Petroleum Institute Publication 1631-01; Interior Lining and Period Inspection of Underground Storage Tanks"; and
- (a) Internal inspections shall be performed by a person listed by the state fire marshal to provide UST lining services;
- (b) A modification permit shall be obtained prior to performing work in accordance with paragraph (D)(2)~~(d)(v)~~ (e)(i) of this rule; and
- (c) Video camera inspections shall not be used to meet the requirements of paragraph (D)(2)~~(d)(v)~~ (e)(i) of this rule.
- (ii) Any UST system internally lined that fails to meet the criteria described in paragraph (D)(2)(e) of this rule shall be removed in accordance with rule 1301:7-9-12 of the Administrative Code unless owner and/or operators obtain written approval from the state fire marshal to modify or repair the internally lined UST system. Owners and/or operators shall comply with any conditions imposed by the state fire marshal on the use of internal lining.
- (iii) UST systems internally lined that also have cathodic protection that meets the requirements of paragraphs (D)(1) through (D)(2)(d)(iv)(b) of this rule do not have to comply with paragraph (D)(1)(e) of this rule.
- (f) All corrosion protection systems on UST systems shall be installed, operated and maintained in a manner that minimizes any adverse effects on adjacent underground metallic structures, including but not limited to,

natural gas pipe lines, telecommunication cables and water and sewage pipelines. If at any time a corrosion protection system on an UST system is believed to have adversely affected an adjacent underground metallic structure, owners and operators shall immediately participate in the testing and remediation of any such adverse effects.

(3) Piping that routinely contains regulated substances shall be designed and constructed pursuant to the following:

(a) Piping in contact with the ground or frequently submerged in water shall be protected from corrosion in one of the following manners:

(i) The piping is constructed of fiberglass-reinforced plastic or flexible plastic technology piping in compliance with "Underwriters Laboratories Standard 971-95; Nonmetallic Underground Piping for Flammable Liquids" and "Underwriters Laboratories Standard 567-03; Pipe Connectors for Petroleum Products and LP Gas"; or

(ii) The piping is constructed of metal in compliance with "National Fire Protection Association Standard 30-03 2008; Flammable and Combustible Liquids Code" and "American National Standards Institute B31.3-02; American National Standard Code for Pressure Piping", coated with a suitable dielectric material and cathodically protected using:

(a) Field-installed cathodic protection systems that are designed by a corrosion expert; or

(b) The piping and cathodic protection systems meet the requirements of "American Petroleum Institute Publication 1632-02; Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems", "National Association of Corrosion Engineers Standard RP-0169-02; Control of External Corrosion on Underground or Submerged Metallic Piping Systems", or "Steel Tank Institute R892; Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems" and related Steel Tank Institute specifications; and

(b) Piping that routinely contains regulated substances shall be installed with an isolation valve to allow for the separation of the piping from the UST. The isolation valve shall be easily accessible.

(4) Piping that routinely contains regulated substances shall be operated and maintained pursuant to all of the following:

(a) Owners and/or operators shall use piping system components that are compatible with the regulated substance stored in the UST system pursuant to paragraphs (D)(2)(a) through (D)(2)(b)(ii) of this rule.

(b) Owners and/or operators shall inspect all accessible piping components at least once a year for evidence of degradation and shall correct any deficiencies that could cause a release or prevent release detection equipment from working properly pursuant to paragraphs (D)(2)(c) through (D)(2)(c)(ii) of this rule.

(c) All corrosion protection systems for piping shall be operated and maintained to continuously provide corrosion protection to the metal components of those portion of the piping that routinely contain regulated substances and are in contact with the ground or frequently submerged in water pursuant to paragraphs (D)(2)(d) through (D)(2)(d)(iv) of this rule.

(5) Containment systems shall be properly designed and constructed pursuant to all of the following:

(a) Each containment system shall be large enough to allow for the visible inspection and access of all components within the containment system;

(b) Each penetration through a containment system shall be water tight while allowing for any forces that may act on the penetration;

(c) Each containment system shall be designed to minimize the infiltration of surface water into the containment

area; and

(d) Covers for containments system shall be designed or managed to allow access to the containment system within four hours of a request by the state fire marshal or local fire official.

(6) Containment equipment shall be properly operated and maintained pursuant to the following:

(a) All containments shall be inspected at least once a year for proper operation and for the presence of water, regulated substances and debris in accordance with the following:

(i) Containments shall be inspected for evidence of excessive distortion, cracking or gross failure of the containments and any penetration fittings;

(ii) All water and debris shall be removed and properly disposed; and

(iii) All regulated substances shall be removed and properly disposed.

(b) Containment systems shall be tightness tested pursuant to paragraphs ~~(E)(3)(d c)~~ and (F)(3)(a) of rule 1301:7-9-07 of the Administrative Code.

(7) Spill prevention equipment and overfill prevention equipment shall be designed and constructed pursuant to all of the following:

(a) To prevent spilling and overfilling associated with regulated substance transfer to the UST system, owners and/or operators shall install the following spill prevention equipment and overfill prevention equipment:

(i) Spill prevention equipment with a capacity of at least five gallons that will prevent the release of product into the environment when the transfer hose is detached from the fill pipe; and

(ii) Overfill prevention equipment that will achieve one of the following:

(a) Automatically shut off flow into the tank when the tank is no more than ninety-five per cent full; or

(b) Alert the transfer operator when the tank is no more than ninety per cent full by restricting the flow into the tank or triggering a high-level alarm; or

(c) Restrict flow thirty minutes prior to overfilling, alert the operator with a high level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

(b) Float vent valves for overfill prevention, when used, shall be installed with an extractor fitting to allow for the testing and maintenance of the UST system; and

(c) Float vent valves for overfill prevention shall not be allowed on any type of suction system.

(8) Spill prevention equipment and overfill prevention equipment shall be properly operated and maintained pursuant to all of the following:

(a) Owners and/or operators of all UST systems shall ensure that releases due to spilling or overfilling do not occur. The owner and/or operator shall ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling;

(b) The owner and/or operator of all UST systems shall report, investigate and clean up any spills and overfills in compliance with rule 1301:7-9-13 of the Administrative Code;

(c) Owners and/or operators shall visually inspect all spill prevention equipment after each delivery and shall promptly remove and properly dispose of any water, regulated substances and/or debris from the spill prevention equipment; and

(d) Owners and operators shall inspect all spill prevention equipment and overfill prevention equipment annually for proper operation and evidence of deterioration.

(E) General performance standards, permits, certified UST installers and inspectors.

(1) All UST systems shall be properly installed, modified and repaired in accordance with the manufacturer's instructions, Petroleum Equipment Institute Publication RP100-~~2000~~ 2005; "Recommended Practices for Installation of Underground Liquid Storage Systems", American Petroleum Institute Publication 1615-01; "Installation of Underground Petroleum Storage Systems", National Fire Protection Association Publication NFPA 30-03 2008 "Flammable and Combustible Liquids Code", National Fire Protection Association Publication NFPA 30A-03 2008 "Motor Fuel Dispensing Facilities and Repair Garages", National Fire Protection Association Publication NFPA 407-01 "Standard for Aircraft Fuel Servicing", and applicable Steel Tank Institute installation instructions. Where there is a conflict between requirements the more protective requirement shall prevail.

(2) Owners and/or operators shall maintain records of each installation, modification or major repair to the UST system that demonstrate compliance with the requirements of this chapter for the remaining operating life of the UST system and for two years after the closure of the UST system.

(3) Performing work pursuant to this rule does not relieve a person engaged in underground storage tank activity from the obligation of complying with any other applicable federal, state, or local laws and regulations, including but not limited to, the Ohio Fire Code or the Ohio Building Code, etc.

(4) Any person performing work in accordance with this rule shall obtain a permit as required in paragraph (C) of rule 1301:7-9-10 of the Administrative Code prior to performing the work. All work performed in accordance with this rule shall be overseen by a certified UST installer and a certified UST inspector as required in paragraph (D) of rule 1301:7-9-10 of the Administrative Code.

(5) A tightness test shall be performed on any new or existing UST system component that undergoes work requiring an installation, modification or major repair permit under paragraph (E)(4) of this rule prior to placing the UST system into operation. No UST system shall be placed into operation until a passing tightness test result is obtained for the UST system component undergoing work.

(6) Other design, construction, installation, operation and maintenance methods may be used in place of any requirements or methods described in this rule if an owner and operator demonstrates that the alternative method is no less protective of human health and the environment than the method or requirement specified in this rule, and the state fire marshal approves the alternative method in writing prior to the use of the method. If the alternative method is approved, the owner and operator shall comply with any terms and conditions imposed on its use by the state fire marshal.

HISTORY: Eff 6-6-85; 5-9-88; 11-5-90; 1-1-97; 3-31-99; Replaces: 1301:7-9-06, eff. 3-1-05

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Appendix B

1301:7-9-07 Release detection methods and requirements for UST systems.

(A) Purpose and scope.

For the purpose of prescribing rules pursuant to section 3737.88 of the Revised Code, the state fire marshal hereby adopts this rule to establish release detection requirements and methods for underground storage tanks (UST) containing petroleum or other regulated substances. This rule is adopted by the state fire marshal in compliance with Chapter 119. of the Revised Code and shall not be considered a part of the "Ohio Fire Code." The following UST systems are exempt from this rule:

- (1) Wastewater treatment tank systems;
- (2) Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 U.S.C.A. 2014 and following);
- (3) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the United States nuclear regulatory commission;
- (4) Airport hydrant fuel distribution systems; and
- (5) UST systems with field-constructed tanks.

(B) Release detection requirements for new UST systems.

(1) New USTs shall be equipped and monitored for releases at least every thirty days using interstitial monitoring pursuant to paragraph (D)(1)(d) of this rule.

(2) Underground piping that routinely contains regulated substances that is part of a new UST system shall be equipped and monitored for releases pursuant to paragraph (D)(2)(b) through (D)(2)(c)(iii)(c) of this rule except that:

(a) Underground piping that conveys petroleum under suction shall be equipped and monitored for releases pursuant to paragraph (D)(2)(d) of this rule; and

(b) A manifold that conveys petroleum under suction between tanks does not have to meet the interstitial monitoring requirements as described in paragraph (D)(2)(b) of this rule.

(3) Containments that are part of a new UST system shall be equipped and monitored for releases pursuant to paragraph (D)(3) of this rule.

(4) New UST systems containing motor or aviation petroleum fuels are not required to be monitored using product inventory control as described in paragraph (D)(1)(a) of this rule.

(5) New UST systems that store fuel for use by emergency power generators shall comply with release detection requirements pursuant to paragraphs (B)(1) through (B)(3) of this rule.

(6) If a method of UST release detection authorized in paragraph (B)(1) of this rule is found to be defective, owners and operators shall immediately repair or replace the method of release detection.

(a) While the method of release detection is being repaired or replaced, owners and operators may use product inventory control or automatic tank gauging in accordance with paragraph (D)(1)(a) or (D)(1)(c) of this rule in order to meet the requirements of paragraphs (B)(1) of this rule.

(b) Owners and operators may use product inventory control or automatic tank gauging in accordance with paragraph (D)(1)(a) or (D)(1)(c) of this rule for a period of up to sixty days after the last passing result obtained in accordance with paragraphs (B)(1) of this rule. Afterwards, owners and operators shall take the UST system out of service in accordance with rule 1301:7-9-12 of the Administrative Code until such time that the release detection method is repaired or replaced.

(7) If an owner and/or operator elects to equip an UST system in a manner that exceeds the requirements of this rule, the owner and/or operator is only required to maintain the UST system to the extent required by this rule.

(8) Other methods of release detection may be used for tanks, piping and containments pursuant to paragraph (D)(4) of this rule.

(C) Release detection requirements for existing UST systems.

(1) Existing UST systems shall be equipped and monitored for release in accordance with the following:

(a) Existing USTs shall be equipped and monitored for releases at least every thirty days pursuant to paragraphs (D)(1)(c) ~~and~~ or (D)(1)(d) of this rule except that:

(i) Existing tanks with a capacity of five hundred fifty gallons or less may use manual tank gauging in compliance with paragraphs (D)(1)(b) of this rule as the sole method of release detection; and

(ii) Existing tanks with a capacity of five hundred fifty-one to two thousand gallons that contain new or used oil may use manual tank gauging in compliance with paragraphs (D)(1)(b) of this rule as a method of release detection provided that a tank tightness test is performed in accordance with paragraph (F)(1)(a) of this rule once every five years.

(b) Existing underground piping that routinely contains regulated substances shall be equipped and monitored for releases pursuant to paragraph (D)(2)(a) through (D)(2)(d)(ii)(b) of this rule except that:

(i) Existing piping associated with UST systems installed prior to March 1, 2005, does not have to meet the interstitial monitoring requirements as described in paragraph (D)(2)(b) of this rule.

(ii) Existing underground piping that conveys regulated substances under suction shall be equipped and monitored for releases pursuant to paragraph (D)(2)(d) of this rule; and

(iii) An existing suction manifold between tanks does not have to meet the interstitial monitoring requirements as described in paragraph (D)(2)(b) of this rule.

(c) Existing containment systems shall be equipped and monitored for releases pursuant to paragraph (D)(3) of this rule except existing containments associated with UST systems installed prior to March 1, 2005, are not required to meet the release detection requirements of paragraph (D)(3) of this rule and shall instead be equipped and monitored pursuant to paragraph (D)(6) of rule 1301:7-9-06 of the Administrative Code.

(2) Existing UST systems containing hazardous substances as defined in rule 1301:7-9-03 of the Administrative Code shall be equipped and monitored for a releases of a hazardous substance as defined in 1301:7-9-03(B)(1) and (B)(2) pursuant to the new UST system requirements defined in paragraph (B) of this rule except that:

(a) Existing containments originally configured with one release detection sensor located at the lowest point of the secondary containment system are not required to have sensors in every containment; and

(b) Existing underground piping and manifolds that convey hazardous substance under suction shall be equipped and monitored for releases pursuant to paragraph (B)(2) of this rule.

(3) Existing UST systems located in sensitive areas as defined in rule 1301:7-9-09 of the Administrative Code shall

be equipped and monitored for releases pursuant to the new UST system requirements defined in paragraph (B) of this rule except that:

- (a) Automatic line leak detectors are no longer required to be designed with a limited restart capability that automatically prevents the operator from restarting the flow of regulated substances more than once.
- (b) Existing containments originally configured with one release detection sensor located at the lowest point of the secondary containment system are not required to have sensors in every containment.
- (c) Existing UST systems that were installed in sensitive areas before the effective dates listed in paragraphs (C) to (E) of rule 1301:7-9-09 of the Administrative Code shall be equipped to be monitored for releases pursuant to the existing UST requirements of paragraph (C)(1) of this rule.
- (4) Owners and operators using soil gas monitoring or ground water monitoring as the sole method of release detection for USTs and piping were required to comply with one of the release detection methods as provided in paragraphs (D)(1)(c) or (D)(1)(d) of this rule by December 31, 2005. Owners and operators may request to continue using said methods of release detection or request to use an alternative method provided that the owner and operator receives written approval from the state fire marshal pursuant to paragraph (D)(4) of this rule.
- (5) Existing UST systems containing motor or aviation petroleum fuels are no longer required to be monitored daily using product inventory control as described in paragraph (D)(1)(a) of this rule.
- (6) Existing UST systems that store fuel for use by emergency power generators are not required to be equipped with release detection pursuant to paragraphs (B)(1) through (B)(3) of this rule unless the UST systems undergoes work pursuant to paragraph (C)(7) of rule 1301:7-9-06 of the Administrative Code.
- (7) If a method of UST release detection authorized in paragraph (C)(1)(a) of this rule is found to be defective, owners and operator shall ~~abide~~ comply with paragraph (B)(6)(a) through (B)(6)(b) of this rule and may use product inventory control as a method of UST release detection.
- (8) If work is performed on an existing UST system in order to meet the requirements of paragraph (C)(7) of rule 1301:7-9-06 of the Administrative Code, then the UST, piping or containments equipment affected by the work shall meet the release detection requirements for new UST systems as described in paragraphs (B)(1) through (B)(3) of this rule.
- (9) If an owner and/or operator elects to equip a UST system in a manner that exceeds the requirements of this rule, the owner and/or operator is only required to maintain the UST system to the extent required by this rule.
- (10) Other methods of release detection may be used for tanks, piping and containments pursuant to paragraph (D)(4) of this rule.

(D) Methods, operation and maintenance of release detection systems on UST systems.

(1) UST release detection.

Owners and/or operators should carefully review the release detection requirements described in paragraphs (B) and (C) of this rule in order to determine which of the following methods apply to their UST system.

(a) Daily product inventory control shall be conducted as described in "American Petroleum Institute 1621-01; Recommended Practice for Bulk Liquid Stock Control of Retail Outlets."

(i) Inventory from UST systems shall be reconciled monthly. If the reconciliation for any month indicates an overage or shortage equal to or greater than one per cent of flow-through plus one hundred thirty gallons, owners and operators shall investigate the inventory discrepancy as described in "American Petroleum Institute 1621-01 Recommended Practice for Bulk Liquid Stock Control of Retail Outlets."

(ii) If inventory discrepancies occur for two consecutive months, owners and operators shall perform an investigation in accordance with all of the following:

(a) Conduct a tightness test of the UST system in accordance with paragraph (F) of this rule within seven days of discovery of the discrepancy; and

(b) Report any failure of a tightness test to BUSTR as a suspected release. A release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of the Revised Code and this chapter of the Administrative Code if a tightness test leak rate exceeds the amount designated for the testing method. Passing tightness test results do not have to be reported to the state fire marshal.

(iii) Gauging sticks and charts used in the performance of daily product inventory control as described in paragraphs (D)(1)(a) of this rule shall be designed for the UST being measured and shall be maintained in working order.

(b) Manual tank gauging shall be conducted weekly and comply with the following requirements:

(i) Tank liquid level measurements shall be taken at the beginning and end of a time period of at least thirty-six hours during which no liquid is added to or removed from the tank;

(ii) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;

(iii) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch; and

(iv) A release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of the Revised Code and this chapter of the Administrative Code if the variation between the beginning and ending measurements exceeds the weekly or monthly standards in the following table:

Tank Capacity	Weekly Standard (One test)	Monthly Standard (Average of four tests)
550 gallons or less	10 gallons	5 gallons
551-1,000 gallons	13 gallons	7 gallons
1,001-2,000 gallons	26 gallons	13 gallons

(v) Gauging sticks and charts used in the performance of manual tank gauging as described in paragraphs (D)(1)(b) of this rule shall be designed for the UST being measured and shall be maintained in working order.

(c) Equipment for automatic tank gauging that tests for the loss of regulated substance and conducts inventory control shall comply with the following requirements:

(i) Equipment for automatic tank gauging shall perform one of the following:

(a) an in-tank leak test capable of detecting a two tenth of a gallon per hour leak rate from any portion of the tank at least once every thirty days; or

(b) continuous statistical leak detection capable of detecting a two-tenth of a gallon per hour leak rate from any portion of the tank once every thirty days.

~~(ii) The automatic product level monitor test shall be able to detect a two-tenth of a gallon per hour leak rate from any portion of the tank; and~~

(ii) A release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of

the Revised Code and this chapter of the Administrative Code if a two-tenth of a gallon per hour leak rate is detected from any portion of the tank.

(iii) Equipment for automatic tank gauging, including probes, sensors and monitoring units, shall be evaluated annually by a qualified person as described in paragraph (D)(5) of this rule to confirm proper calibration and operation in accordance with the manufacturer's requirements.

(d) ~~Equipment for the m~~Monitoring of the interstice of secondarily contained UST systems shall comply with the following requirements:

(i) ~~Equipment for Monitoring of the interstitial space monitoring shall be performed a test~~ at least once every thirty days;

(ii) Secondarily contained UST systems shall have an interstitial monitoring method that can detect a release through the inner wall or a failure of the outer wall in any portion of the tank that routinely contains a regulated substance;

(iii) A release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of the Revised Code and this chapter of the Administrative Code if any regulated substance is detected between the inner and outer wall, or if the outer wall fails; and

(iv) Equipment for interstitial monitoring, including probes, sensors and monitoring units, shall be evaluated annually by a qualified person as described in paragraph (D)(5) of this rule to confirm proper calibration and operation in accordance with the manufacturer's requirements.

(2) Piping release detection.

Owners and/or operators should carefully review the release detection requirements described in paragraphs (B) and (C) of this rule in order to determine which of the following methods apply to their UST system.

(a) Single wall piping that routinely contains regulated substances shall be monitored pursuant to paragraph (D)(2)(c) through (D)(2)(d)(ii)(b) of this rule.

(b) Secondarily contained piping that routinely contains regulated substances shall be monitored pursuant to paragraphs (D)(2)(c) through (D)(2)(d)(ii)(b) of this rule, and the interstice of the secondarily contained piping shall be continuously monitored for releases using one of the following methods:

(i) The sampling or testing method can detect a two-tenth of a gallon per hour leak rate from any portion of the inner or outer wall of the piping that routinely contains a regulated substance. A release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of the Revised Code and this chapter of the Administrative Code if a two-tenth of a gallon per hour leak rate is detected from any portion of the piping, or

(ii) The piping is contiguous with the containment system and the sampling or testing method can detect a release from any portion of the inner wall of the piping that routinely contains a regulated substance pursuant to paragraph (D)(3) of this rule.

(c) Requirements for pressure piping:

(i) Underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector attached to the piping that will alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through the piping or triggering an audible or visual alarm if the automatic line leak detector detect a leak of three gallons per hour at ten pounds per square inch line pressure within one hour. The owner and operator is permitted to restart the flow of regulated substances only once to verify the presence of a piping leak or an equipment malfunction. If the flow of regulated substance is restricted or shut off or in the event of an audible or visual alarm within two

hours of a restart by an operator, a release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of the Revised Code and this chapter of the Administrative Code.

(ii) Automatic line leak detectors shall be tested annually by a qualified person pursuant to paragraph (D)(5) of this rule to confirm proper calibration and operation in accordance with the following:

(a) Automatic line leak detectors shall be tested in a manner that introduces a simulated leak into the product line between the tank and the dispenser, and the automatic line leak detector functions within design specifications and the flow of product is restricted, stopped or an alarm is activated; and

(b) Automatic line leak detectors that fail a test method shall undergo routine maintenance, modification or major repair, as appropriate, to restore the automatic line leak detectors to working order.

(iii) Underground piping that conveys regulated substances under pressure shall meet one of the following:

(a) Have an annual tightness test conducted in compliance with paragraph (F)(2)(a) of this rule;

(b) Have a monthly tightness test conducted by the on-site electronic line testing unit as described in paragraph (D)(2)(c) of this rule provided that the unit can detect a two-tenth of a gallon per hour leak rate at operating pressure; or

(c) Be a part of secondarily contained piping system where by the interstice of the piping is continuously monitored pursuant to (D)(2)(b)(i) or (D)(2)(b)(ii) of this rule.

(d) Requirements for suction piping:

~~(i) Underground piping that conveys regulated substances under suction shall be checked monthly for indications of a loss of prime that would suggest that a release has occurred. If a loss of prime is evident, a release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of the Revised Code and this chapter of the Administrative Code.~~

(i) Underground piping that conveys regulated substances under suction shall be monitored for loss of vacuum. Within twenty-four (24) hours of an UST owner and operator discovering vacuum loss, the owner and operator shall initiate an investigation of the cause of the loss of vacuum, and determine whether the component is defective, but not leaking. If an owner and operator is unable to make a determination of the loss of vacuum, then the loss of vacuum shall be considered a suspected release as defined in O.A.C. 1301:7-9-13(C)(34) and the owner and operator shall comply with O.A.C. 1301:7-9-13(F)(2). If a component is leaking it shall constitute a release as defined in O.A.C. 1301:7-9-13(C)(25) and the owner and operator shall comply with O.A.C. 1301:7-9-13(F).

(ii) Underground piping that conveys regulated substances under suction shall meet one of the following:

(a) Have a tightness test conducted every thirty-six month period in compliance with paragraph (F)(2)(a) of this rule; or

(b) Demonstrate compliance with the following safe suction requirements: ~~of paragraph (B)(54?) of rule 1301:7-9-02 of the Administrative Code.~~

(i) The underground piping operates at less than atmospheric pressure;

(ii) The underground piping is sloped so that the contents of the pipe will drain back into the tank if the suction is released;

(iii) Only one check valve is included in each suction line;

(iv) The check valve is located directly below and as close as practical to the suction pump; and

(v) A method is provided that allows compliance with paragraphs (b)(i) through (iv) of this paragraph to be readily determined.

(e) Above ground piping that routinely contains regulated substances that is fully visible to inspection is not required to be equipped with release detection. If a portion of the above ground piping is located below ground and the piping can not be easily accessed for visual inspection, then the piping must be equipped and monitored for releases pursuant to paragraph (D)(2) of this rule.

(3) Release detection methods for containment systems:

Owners and/or operators should carefully review the release detection requirements described in paragraphs (B) and (C) of this rule in order to determine which of the following methods apply to their UST system.

(a) Containment systems shall be continuously monitored with sensors capable of detecting a release of a regulated substance before the release reaches the lowest penetration in the containment system. Sensors shall be located in every containment.

(b) Any alarm from a sensor in any containment system shall be evaluated within twenty four hours to confirm proper operation or to confirm the presence of a release. A release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of the Revised Code and this chapter of the Administrative Code if any regulated substance is detected in the containment sump.

(c) The following containment systems shall be tested for tightness every three years in accordance with paragraph (F)(3)(a) of this rule.

(i) All containment systems installed on new UST systems after March 1, 2005;

(ii) As of December 31, 2005, all containment systems associated with UST systems containing hazardous substances pursuant to rule 1301:7-9-03 of the Administrative Code; and

(iii) As of December 31, 2005, all containment systems associated with UST systems that were installed in areas designated as sensitive areas after the effective dates listed in paragraphs (C) to (E) of rule 1301:7-9-09 of the Administrative Code.

(d) Release detection equipment for containment systems, including probes, sensors and monitoring units, shall be evaluated annually by a qualified person as described in paragraph (D)(5) of this rule to confirm proper calibration and operation in accordance with the manufacturer's requirements.

(4) Any other type of release detection method, or combination of methods, can be used if approved in writing by the state fire marshal pursuant to the following:

(a) The method can detect a two-tenths of a gallon per hour leak rate with a probability of detection of 0.95 and a probability of falsely indicating a release of 0.05; or the owner and operator can demonstrate the method can detect a release as effectively as any of the corresponding methods allowed in paragraphs (D)(1)(c) through (D)(3)(d) of this rule. In comparing methods, the state fire marshal shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. The state fire marshal may approve, deny or rescind the method at his discretion. If the method is approved, the owner and operator shall comply with any terms and conditions imposed by the state fire marshal on its use;

(b) A release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of the Revised Code and this chapter of the Administrative Code if a release exceeds the leak rates established for the method approved by the state fire marshal; and

(c) Any method of release detection allowed by paragraph (D)(4) of this rule detection shall be properly monitored, operated and maintained in accordance with any terms and conditions imposed by the state fire marshal on its use. At a minimum, the method shall produce a result at least every thirty days and the method shall be maintained and operated in accordance with the manufacturer's requirements unless the state fire marshal specifies otherwise.

(5) Release detection methods described in paragraphs (D)(1)(c) through (D)(4)(c) of this rule shall be evaluated for proper operation by a qualified person who is:

(a) Recognized by the manufacturer of the release detection method to be proficient in the evaluation of the release detection method;

(b) Recognized by ~~an accredited~~ third party approved by the state fire marshal to be proficient in the evaluation of the release detection method; or

(c) Recognized by the state fire marshal as proficient in the evaluation of the release detection method.

(6) All methods of release detection shall be properly installed in accordance with the manufacturer's instructions and either "Petroleum Equipment Institute Publication RP100-~~2000~~ 2005; Recommended Practices for Installation of Underground Liquid Storage Systems" or "American Petroleum Institute Publication 1615-01; Installation of Underground Petroleum Storage Systems." Where there is a conflict between requirements the more protective requirement shall prevail.

(E) Release detection recordkeeping.

(1) UST system owners and operators shall maintain records demonstrating compliance with this chapter, and these records shall be maintained pursuant to the following:

(a) All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, shall be maintained for the life of the UST system and for two years after the closure of the UST system in compliance with this chapter;

(b) The results of any sampling, testing, or monitoring shall be maintained for at least two years;

(c) Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located at the facility, and any schedules of required calibration and maintenance provided by the release detection equipment manufacturer shall be retained for the life the equipment and for two years there after;

(d) Owners and operators shall provide the state fire marshal access to all records with twenty-four hours of a request; and

(e) Within thirty days of transfer of ownership of an UST system, the transferor shall provide the transferee with all records identified in section (E) of this rule or with equivalent copies of said records.

(F) Testing methods for UST systems.

(1) Tightness testing for underground storage tanks.

(a) Tank tightness testing of the primary shell of both single wall and secondarily contained ~~tanks~~ USTs shall be capable of detecting a one tenth of a gallon per hour leak rate from any portion of the primary shell tank while accounting for the effects of thermal expansion or contraction of the regulated substance, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

(b) Tightness testing of the interstice of secondarily contained ~~tanks~~ USTs shall follow the manufacturers testing requirements or other requirements approved by the manufacturer, the state fire marshal, or a third party who has demonstrated proficiency in tightness testing to the state fire marshal.

(2) Tightness testing for piping.

(a) Piping tightness testing of ~~the primary piping of both~~ single wall pipe and the primary or inner pipe of secondarily contained pressure piping may be conducted only if it can detect a one-tenth of a gallon per hour leak rate at one and one-half times the operating pressure.

(b) Tightness testing of suction and other non-pressurized piping shall be conducted as follows:

(i) Piping that can be isolated from the UST shall be tested using a method capable of detecting a one-tenth of a gallon per hour leak rate at a minimum of fifteen pounds per square inch pressure.

(ii) Piping that can not be isolated from the UST shall be tested using a method capable of detecting a one-tenth of a gallon per hour leak rate.

(c) Tightness testing of the interstice of secondarily contained piping shall follow the manufacturers testing requirements or other requirements approved by the manufacturer, the state fire marshal, or a third party who has demonstrated proficiency in tightness testing to the state fire marshal.

(3) Testing of containment systems

(a) Testing of containment systems shall be performed as follows:

(i) For new containments, all penetrations must be completed prior to testing, including electrical;

(ii) The containment system shall be filled with water or other approved liquid to a height that covers the highest penetration; and

(iii) The test duration shall be sixty minutes with no drop in liquid levels or the method shall be capable of detecting a one tenth of a gallon per hour leak rate from the containment.

(4) All testing methods listed in paragraphs (F)(1)(a) ~~and through (F)(32)(a)(iii)~~ of this rule shall be third party approved to perform in a manner where the method can detect a release at the designated release rate with a probability of detection of 0.95 and a probability of falsely indicating a release of 0.05. A release is suspected and subject to the reporting requirements of sections 3737.88 and 3737.882 of the Revised Code and this chapter of the Administrative Code if a leak rate exceeds the amount designated for the testing method.

(5) Testing shall be performed in accordance with the manufacturer's instructions, Petroleum Equipment Institute Publication RP100- ~~2000~~ 2005; "Recommended Practices for Installation of Underground Liquid Storage Systems," American Petroleum Institute Publication 1615-01; "Installation of Underground Petroleum Storage Systems," National Fire Protection Association Publication NFPA 30-~~03~~ 2008 "Flammable and Combustible Liquids Code," and National Fire Protection Association Publication NFPA 30A-~~03~~ 2008 "Motor Fuel Dispensing Facilities and Repair Garages." Where there is a conflict between requirements the more protective requirement shall prevail.

(6) No pressure testing with air shall be performed on a component of an UST system that has contained a flammable regulated substance or flammable vapors. The manufacturers instructions for the testing method shall be followed when using gases for the test method.

(7) All testing methods defined in paragraphs (F) to (F)(3)(a)(iii) of this rule shall be performed by a person who is:

(a) Recognized by the manufacturer of the tightness testing method to be proficient in performing the testing method;

(b) Recognized by a ~~accredited~~ third party approved by the state fire marshal to be proficient in performing the tightness testing method; or

(c) Recognized by the state fire marshal to be proficient in performing the tightness testing method.

(G) General performance standards, permits, certified UST installers and inspectors.

(1) Any person performing work in accordance with this rule shall obtain a permit as required in paragraph (C) of rule 1301:7-9-10 of the Administrative Code prior to performing the work. All work performed pursuant to this rule shall be overseen by a Certified UST Installer and a Certified UST Inspector as required in paragraph (D) of rule 1301:7-9-10 of the Administrative Code.

(2) Prior to going into operation, a functionality test shall be performed on any new or existing UST system component that undergoes work requiring a permit under paragraph (G)(1) of this rule. The UST system shall not be placed into operation until a passing functionality result is obtained for the UST system component undergoing work.

(3) Performing work pursuant to this rule does not relieve a person engaged in underground storage tank activity from the obligation to comply with any other applicable federal, state, or local laws and regulations, including but not limited to, the Ohio Fire Code and the Ohio Building Code.

(4) Other release detection requirements and methods may be used in place of any requirements or methods described in this rule if an owner and operator demonstrates that the alternative method is no less protective of human health and the environment than the method or requirement specified in this rule, and the state fire marshal approves the alternative method in writing prior to the use of the method. If the alternative method is approved, the owner and operator shall comply with any terms and conditions imposed on its use by the state fire marshal.

HISTORY: Eff 6-6-85; 5-9-88; 11-5-90; 1-1-97; 3-31-99; 3-1-05; 12-31-05

Rule promulgated under: RC [119.03](#)

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Rule amplifies: RC [3737.88](#)

R.C. [119.032](#) review dates: 12/31/2010

Appendix C

1301:7-9-18 Delivery prohibition for underground storage tanks ~~systems~~.

(A) Purpose and scope.

For the purpose of prescribing rules pursuant to section 3737.88 of the Revised Code, the state fire marshal hereby adopts this rule to establish delivery prohibition for underground storage tanks (UST) ~~systems~~ containing petroleum or other regulated substances. This rule is adopted by the state fire marshal in accordance with Chapter 119. of the Revised Code and shall not be considered a part of the "Ohio Fire Code." The following underground storage tanks ~~systems~~ are exempt from this rule:

- (1) Wastewater treatment tank systems;
- (2) Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 U.S.C.A. 2014 and following);
- (3) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the United States nuclear regulatory commission;
- (4) Airport hydrant fuel distribution systems; and
- (5) UST~~s~~ systems with field constructed tanks.

(B) Delivery prohibition.

After the effective date of this rule, it shall be unlawful for any person to deliver to, deposit into, or accept a regulated substance into an underground storage tank ~~at a site~~ which has been identified by the state fire marshal to be ineligible for such delivery, deposit, or acceptance pursuant to the issuance of an order by the state fire marshal in accordance with paragraph (D)(1) of this rule.

(C) Identifying an ineligible underground storage tank systems.

- (1) The state fire marshal shall classify an underground storage tank ~~system~~ as ineligible for delivery, deposit, or acceptance of a regulated substance as soon as practicable after the state fire marshal determines one or more of the following conditions exist:
 - (a) Required spill prevention equipment is not installed pursuant to rule 1301:7-9-06 of the Ohio Administrative Code;
 - (b) Required overfill ~~protection~~ prevention equipment is not installed pursuant to rule 1301:7-9-06 of the Ohio Administrative Code;
 - (c) Required corrosion protection equipment is not installed pursuant to rule 1301:7-9-06 of the Ohio Administrative Code; or
 - (d) Required ~~leak~~ release detection equipment is not installed pursuant to rule 1301:7-9-07 of the Ohio Administrative Code.
- (2) The state fire marshal may classify an underground storage tank ~~system~~ as ineligible for delivery, deposit, or acceptance of a regulated substance if the owner or operator of the underground storage tank ~~system~~ has been issued a written Notice of UST Violation for any of the following violations, and the owner or operator fails to initiate ~~corrective~~ corrective action to correct the violation within ~~thirty~~ sixty (360) days of the issuance of the Notice of UST Violation:

- (a) Failure to properly operate or maintain spill prevention equipment pursuant to rule 1301:7-9-06 of the Ohio Administrative Code;
- (b) Failure to properly operate or maintain overfill prevention ~~protection~~ equipment pursuant to rule 1301:7-9-06 of the Ohio Administrative Code;
- (c) Failure to properly operate or maintain corrosion protection equipment pursuant to rule 1301:7-9-06 of the Ohio Administrative Code;
- (d) Failure to properly operate or maintain release leak ~~leak~~-detection equipment pursuant to rule 1301:7-9-07 of the Ohio Administrative Code;
- (e) Failure to obtain a valid certificate of coverage from the Petroleum Underground Storage Tank Release Compensation Board pursuant to O.A.C. 1301:7-9-05(G)(1); or
- (f) Failure to comply with the deductible coverage requirements described in paragraphs (H) to (H)(2) of O.A.C. 1301:7-9-05.

(D) Notification and red tag procedures.

(1) If the state fire marshal classifies an underground storage tank ~~system~~ as ineligible for delivery, deposit, or acceptance of a regulated substance pursuant to paragraph (C) of this rule, the state fire marshal shall issue an order to the owner or operator prior to prohibiting the delivery, deposit, or acceptance of a regulated substance. The order is considered properly served by the state fire marshal in any of the following ways:

- (a) The order is personally delivered to the owner or operator; or
- (b) The order is clearly posted at an entrance to the site where the underground storage tank ~~system~~ is located, and a copy of the order is also sent by ~~certified~~ regular mail to the last known address of the owner or operator.

(2) The written order described in paragraph (D)(1) of this rule shall include:

- (a) The specific reasons or violations that led to the ineligible classification;
- (b) A statement notifying the owner and operator that the underground storage tank ~~system~~ is ineligible for delivery and it is unlawful for any person to deliver to, deposit into, or accept a regulated substance into the underground storage tank ~~system~~;
- (c) The effective date the underground storage tank ~~system~~ is deemed ineligible for delivery;
- (d) The name and address of the state fire marshal representative to whom a written request for re-inspection can be made, if a re-inspection is necessary; and
- (e) A statement addressing the right to appeal the state fire marshal's order pursuant to paragraph (D) of section 3737.882 of the Revised Code.

(3) Once service of the order is complete pursuant to paragraph (D)(1) of this rule, the state fire marshal shall perform the following procedures in order to attach a red tag to the fill pipe of the underground storage tank ~~system~~ that the state fire marshal determined to be ineligible and to clearly identifying to the public that the underground storage tank system is ineligible for delivery, or deposit, or acceptance of a regulated substance:

- (a) ~~For sites with one or multiple underground storage tank systems, A~~ a separate red tag shall be attached to each ~~accessible~~ fill pipe of each underground storage tank ~~system in violation of this rule~~ determined to be ineligible for delivery, deposit, or acceptance of a regulated substance;
- (b) The red tag shall include the following wording in at least 16 point type: "Delivery Prohibited. Delivering

petroleum or other regulated substance to this underground storage tank ~~system~~, or removing, defacing, altering, or otherwise tampering with this tag may result in civil penalties of up to \$10,000 per day”;

(c) The state fire marshal shall attempt to document the level and/or volume of regulated substance in the underground storage tank ~~system~~ at the time that red tag is attached;

(d) The state fire marshal shall maintain a list of all underground storage tanks ~~systems~~ that are classified as ineligible for delivery, deposit, or acceptance of a regulated substance. The state fire marshal shall make updates to the list available to the public by posting the list on the state fire marshal’s website in a timely manner;

(e) If an eligible UST is connected or manifolded to an ineligible UST, the state fire marshal will determine that both USTs are ineligible to receive delivery, deposit, or acceptance of a regulated substance for purposes of this rule, unless the eligible UST meets both of the following requirements:

(i) the eligible tank is designed to receive a regulated substance through a means not connected, manifolded, or otherwise dependent on the ineligible tank; and

(ii) the eligible tank is prevented from delivering or receiving regulated substances to or from the ineligible tank; and

(f) For a multiple compartment UST, the red tag shall only be attached to the fill pipe of the compartment associated with the condition or violation which resulted in the compartment being determined ineligible for the delivery, deposit, or acceptance of a regulated substance.

(4) Owners or operators may continue to operate an underground storage tank ~~system~~ that is determined to be ineligible pursuant to paragraph (D)(1) of this rule until the ineligible underground storage tank ~~systems~~ is empty. The underground storage tank ~~system~~ shall not receive delivery, deposit, or acceptance of a regulated substance during this time.

(5) The classification of a underground storage tank ~~system~~ as ineligible shall remain in effect until the conditions cited in the order no longer exist as determined by the state fire marshal. If the state fire marshal determines that an ineligible underground storage tank ~~system~~ has returned to compliance and is now eligible for delivery, deposit, or acceptance of a regulated substance, the state fire marshal or an authorized designee shall do all of the following:

(a) as soon as practicable, Rremove the red tag from the underground storage tank ~~system~~ no later than five business days after the state fire marshal determines that the underground storage tank is compliant; and

(b) also Rremove the underground storage tank system from the ineligible list posted on the state fire marshal’s website; and

(c) The fire marshal will also Ssend a written notice to the owner and or operator that the ineligible storage tank ~~system~~ has returned to compliance and is now eligible for delivery, deposit, or acceptance of a regulated substance.

(E) Product delivery.

(1) Any person delivering or depositing regulated substances into an ineligible underground storage tank ~~system~~ shall be in violation of paragraph (B) of this rule unless both of the following conditions can be demonstrated:

(a) The delivery or deposit was made prior to notice of the ineligible underground storage tank being posted on the state fire marshal’s web site as described in paragraph (D)(3)(d) of this rule; and

(b) The red tag was not affixed to the fill pipe at the time of delivery or deposit.

(F) Additional conditions.

(1) It shall be unlawful for any person to tamper with and/or remove the red tag without the state fire marshal's approval.

(2) The state fire marshal may delay the classification of an underground storage tank ~~system~~ as ineligible for delivery, deposit or acceptance of regulated substances if the state fire marshal determines that prohibiting delivery to the underground storage tank ~~system~~ would jeopardize health and safety or the availability of fuel to the community.

(3) The state fire marshal may allow the delivery, deposit or acceptance of a regulated substance into an underground storage tank determined to be ineligible for purposes of testing and other activities required to comply with an order pursuant to paragraph (D)(1) of this rule.

(4) Nothing in this rule shall affect or preempt the authority of the state fire marshal or any other authority with jurisdiction to prohibit the delivery, deposit, or acceptance of a regulated substance to an underground storage tank ~~system~~ under other existing regulations.