

1301:7-9-15 DELEGATION OF AUTHORITY TO INSPECT UST SYSTEMS.

(A) For the purpose of prescribing rules pursuant to section 3737.88 of the Revised Code, the fire marshal hereby adopts this rule to establish procedures for delegating to certified fire safety inspectors, as defined in division (D) of section 3737.01 of the Revised Code, the authority to inspect UST systems for compliance with rules 1301:7-9-06 to 1301:7-9-08 of the Administrative Code, to inspect UST systems located in sensitive areas for compliance with rules adopted by the fire marshal pursuant to division (A)(2) of section 3737.88 of the Revised Code, and to inspect out-of-service UST systems and closures for compliance with rules adopted by the fire marshal pursuant to division (A)(1) of section 3737.88 of the Revised Code. The authority to inspect shall include the authority to issue delegated UST permits pursuant to paragraph (E) of this rule. This rule is adopted by the fire marshal in accordance with Chapter 119. of the Revised Code and shall not be considered a part of the "Ohio Fire Code."

(B) Any local fire agency wishing to have the fire marshal delegate to its certified fire safety inspectors the authority to inspect and issue delegated UST permits for UST systems for compliance with rules 1301:7-9-06 to 1301:7-9-08 of the Administrative Code, to inspect and issue delegated UST permits for UST systems located in sensitive areas for compliance with rules adopted by the fire marshal pursuant to division (A)(2) of section 3737.88 of the Revised Code, and to inspect and issue delegated UST permits for out-of-service UST systems and closures for compliance with rules adopted by the fire marshal pursuant to division (A)(1) of section 3737.88 of the Revised Code shall submit an application to the fire marshal on a form prescribed by the fire marshal. All applications shall include, without limitation, all of the following:

(1) A list of all certified fire safety inspectors within the agency that will be assigned to conduct UST system inspections;

(2) A copy of the local ordinance or resolution which authorizes the agency to inspect and issue written permits for the installation of, the making of major repairs on site to, abandonment of, and removal of underground storage tanks, as that term is defined in rule 1301:7-7-02 of the Administrative Code, within the agency's jurisdictional area;

(3) A map or description of all political subdivisions depicting the agency's jurisdictional area; and

(4) The name, address, and telephone number of the agency's UST inspection coordinator as designated by the chief of the agency.

(C) The fire marshal shall review all applications. If the fire marshal determines that the local fire agency has the necessary authority, the fire marshal may delegate to the agency's certified fire safety inspectors the authority to inspect and issue delegated UST permits for UST systems for compliance with rules 1301:7-9-06 to 1301:7-9-08 of the Administrative Code, to inspect and issue delegated UST permits for UST systems located in sensitive areas for compliance with rules adopted by the fire marshal pursuant to division (A)(2) of section 3737.88 of the Revised Code, and to inspect and issue delegated UST permits for out-of-service UST systems and closures for compliance with rules adopted by the fire marshal pursuant to division (A)(1) of section 3737.88 of the Revised Code.

(D) The fire marshal shall retain the authority to revoke any authority delegated pursuant to this rule upon a determination by the fire marshal that a local fire agency has failed to adequately inspect UST systems within the local fire agency's jurisdiction, has failed to keep adequate records, or has failed to properly apply this chapter.

(E) The fire marshal shall prepare the delegated UST application and permit forms for use by local fire agencies delegated authority pursuant to this rule. Local fire agencies which have been delegated authority pursuant to this rule shall issue a delegated UST permit to those responsible

persons who have submitted a completed delegated UST permit application to the local fire agency upon a determination by the local fire agency that the proposed activity is in compliance with all applicable provisions of this chapter. The delegated UST permit shall be attached to a locally authorized permit. A local fire agency which has been delegated authority pursuant to this rule may determine a reasonable amount for all inspection fees, if any, within its jurisdiction. Any permit issued by a local fire agency pursuant to this paragraph shall not be construed as authority to violate any provision of this chapter.

(F) If a local fire agency which has been delegated authority pursuant to this rule determines that a delegated UST permit application is incomplete, that there has been a false statement or misrepresentation of a material fact on the delegated UST permit application or supporting documentation, or that the proposed activity is in violation of this chapter, the local fire agency shall initiate permit application denial proceedings. To initiate denial proceedings, the local fire agency shall inform the fire marshal in writing of the proposed denial and the reason for the proposed denial. Upon such notification, the fire marshal may deny the delegated UST permit application in compliance with Chapter 119. of the Revised Code. Upon any denial, the fire marshal shall retain any and all authority to bring an action against the responsible person for any violation of this chapter or section 3737.882 of the Revised Code.

(G) Local fire agencies which have been delegated authority pursuant to this rule shall have one of their certified fire safety inspectors inspect the activity for which a delegated UST permit has been issued. Certified fire safety inspectors shall be physically on site for the following activities:

(1) In the case of delegated UST installation permits, examination of the excavation prior to the physical placing of the UST system into the

ground, the in ground test of the piping prior to backfilling the piping, and the final tightness test prior to placing the UST system into service;

(2) In the case of delegated UST upgrade permits for tanks, immediately before purging operations begin, immediately before the tank is cut open for entry, and the final tightness test prior to placing the UST system back into service;

(3) In the case of delegated UST upgrade permits for piping, the in-ground test of the piping prior to backfilling the piping, and the final tightness test on the upgraded portion of the piping prior to placing the UST system back into service;

(4) In the case of delegated UST permits for leak detection upgrades, the test of the leak detection system;

(5) In the case of delegated UST permits for the repair of tanks, immediately before purging operations begin, immediately before the tank is cut open for entry, and the final tightness test prior to placing the UST system back into service;

(6) In the case of delegated UST permits for the repair of piping, the in-ground test of the piping prior to backfilling the piping, and the final tightness test prior to placing the UST system back into service;

(7) In the case of delegated UST permits for UST removal, immediately before purging operations begin, immediately before the tank is cut open for any purpose, and the actual removal of the UST system from the ground; and

(8) In the case of delegated UST permits for the abandonment in place of UST systems, immediately before purging operations begin,

immediately before the opening of the tank top, and at the completion of the actual filling of the tank with the inert solid material before covering the UST.

(H) If upon inspection a local fire agency which has been delegated authority pursuant to this rule determines that any violation of this chapter exists, that a condition of a delegated UST permit has been violated, or that there has been any false statement or misrepresentation of a material fact on the delegated UST permit application or supporting documentation, the local fire agency shall initiate revocation proceedings. To initiate revocation proceedings, the local fire agency shall inform the fire marshal in writing of the proposed revocation and the reason for the proposed revocation. Upon such notification, the fire marshal may revoke the delegated UST permit in compliance with Chapter 119. of the Revised Code. Upon any revocation, the fire marshal shall retain any and all authority to bring an action against the responsible person for any violation of this chapter or section 3737.882 of the Revised Code.

(I) Any permit issued pursuant to paragraph (E) of this rule shall be in lieu of the applicable permit required by any other rule of this chapter of the Administrative Code.

(J) Local fire agencies shall retain copies of all permits issued pursuant to paragraph (E) of this rule and shall, upon request of the fire marshal, make such copies available for inspection. Upon request of the fire marshal, the local fire agency shall notify the fire marshal of the number and type of permits issued by the local fire agency pursuant to paragraph (E) of this rule. The local fire agency shall send a copy of all delegated UST installation permits issued pursuant to paragraph (E) of this rule to the fire marshal.

(K) No local fire agency shall issue any delegated UST permit pursuant to this rule unless it has first been delegated the authority to do so by the fire marshal.

(L) The fire marshal retains the authority to bring

an action against the responsible person for any violation of this chapter or section 3737.882 of the Revised Code.

(M) (1) Any certified fire safety inspector that has been assigned on or before December 31, 1996, to conduct UST system inspections by a local fire agency that has been delegated authority pursuant to this rule and is on the list submitted to fire marshal pursuant to paragraph (B)(1) of this rule as of December 31, 1996, may continue to conduct UST system inspections only within the jurisdictional area of the local fire agency on or after January 1, 1997. Any certified fire safety inspector's authority to conduct UST system inspections pursuant to this paragraph shall cease upon the certified fire safety inspector's separation from the local fire agency that has been delegated authority pursuant to this rule. Such a certified fire safety inspector may regain the authority to conduct UST system inspections by complying with paragraph (M)(3) of this rule or rule 1301:7-9-11 of the Administrative Code.

(2) Any certified fire safety inspector described in paragraph (M)(1) of this rule that becomes a certified UST inspector pursuant to rule 1301:7-9-11 of the Administrative Code may conduct UST system inspections as is permissible given the certified fire safety inspector's individual circumstances.

(3) Any certified fire safety inspector that is assigned on or after January 1, 1997, to conduct UST system inspections by a local fire agency that has been delegated authority pursuant to this rule shall also be a certified UST inspector pursuant to rule 1301:7-9-11 of the Administrative Code prior to conducting any UST system inspections.

(N) (1) All certified fire safety inspectors conducting UST system inspections pursuant to this rule shall be limited in the inspections they are allowed to conduct as set forth in paragraphs (T)(1) to (T)(5) of rule 1301:7-9-11 of the Administrative Code.

(2) All certified fire safety inspectors conducting UST system inspections pursuant to this rule shall comply with the operational and reporting requirements set forth in paragraphs (V)(1) to (V)(5) of rule 1301:7-9-11 of the Administrative Code.

(O) All certified fire safety inspectors conducting UST system inspections pursuant to this rule are subject to having their delegation to conduct such inspections denied initially, denied renewal of, suspended, or revoked for the same grounds or reasons set forth in paragraphs (W)(1) to (W)(3)(n) of rule 1301:7-9-11 of the Administrative Code.

(P) The local fire agency whose fire safety inspectors have been delegated pursuant to this rule to conduct UST system inspections may allow certified UST inspectors pursuant to rule 1301:7-9-11 of the Administrative Code to conduct such inspections within its jurisdictional area at its discretion. A local fire agency can only allow certified UST inspectors pursuant to rule 1301:7-9-11 of the Administrative Code to conduct UST system inspections within its jurisdictional area if the local ordinance required by paragraph (B)(2) of this rule specifically allows for certified UST inspectors pursuant to rule 1301:7-9-11 of the Administrative Code to conduct such inspections within the local fire agency's jurisdictional area.

Effective: January 1, 1997

Promulgated under: 119.03

Rules authorized by: 3737.88

Rule amplifies: 3737.88

Prior effective date: 11/26/90 (Emer.)

3/14/91