

(Yellow shaded text reflects changes based on comments)

1301:7-9-01 **Applicability.**

(A) For the purpose of prescribing rules pursuant to section 3737.02 and section 3737.882 of the Revised Code, the state fire marshal hereby adopts this chapter in accordance with Chapter 119 of the Revised Code to implement the underground storage tank program and corrective action program for releases from underground petroleum storage tanks. 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."

(B) Nothing in this chapter shall exempt owners and operators of underground storage tank systems from complying with any other applicable federal, state or local laws and regulations, including but not limited to the "Ohio Fire Code" as the term is defined paragraph (A)(1) of rule 1301:7-7-01 of the Administrative Code or the "Ohio Building Code" as the term is defined in paragraph 101.1 of rule 4101:1-1-01 of the Administrative Code. If the provisions of the "Ohio Fire Code" address similar requirements or are in conflict with the requirements of this chapter, then the provisions of this chapter shall apply.

(C) Airport hydrant fuel distribution systems, underground storage tank (UST) systems with field constructed tanks, and UST systems that store fuel solely for use by emergency generator systems that were previously deferred from parts of this chapter shall meet the following requirements of this chapter:

(1) Airport hydrant fuel distribution systems and UST systems with field constructed tanks that were installed before the effective date of this rule shall comply with the following:

(a) Upon the effective date of this rule, the requirements identified in rules 1301:7-9-12 and 1301:7-9-13 of the Administrative Code;

(b) Within ninety days of the effective date of this rule, the requirements identified in rules 1301:7-9-04 and 1301:7-9-05 of the Administrative Code; and

(c) By October 13, 2018, the requirements identified in rules 1301:7-9-06, 1301:7-9-07, and 1301:7-9-19 of the Administrative Code;

(2) Airport hydrant fuel distribution systems and UST systems with field constructed tanks that were installed after the effective date of this rule shall meet the requirements of this chapter;:

(3) UST systems that store fuel solely for use by emergency generator systems that were installed before May 16, 2011, shall meet the requirements of this chapter, except that the release detection requirements of paragraph (C)(6) of rule 1301:7-9-07 of the Administrative Code shall be met by October 13, 2018; and

(4) UST systems that store fuel solely for use by emergency generator systems that were installed after May 16, 2011, shall meet the requirements of this chapter.

(D)~~(E)~~ The following underground storage tank systems are exempt from the requirements of this chapter:

- (1) Any UST system holding hazardous wastes listed or identified under chapter 3745-51 of the Administrative Code, or a mixture of such hazardous wastes and other regulated substances;
- (2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under section 402 or 307(b) of the federal Water Pollution Control Act (33 U.S.C.A. 1251 et seq., as amended through **January 16, 2014**);
- (3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;
- (4) Any UST system whose capacity is one hundred ten gallons or less;
- (5) Any UST system containing a de minimis concentration of regulated substances; and
- (6) Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

(E) The following storage tank systems are partially exempt from this chapter; however, the storage tank systems shall meet the requirements of this rule and of rules 1301:7-9-05 and 1301:7-9-13 of the Administrative Code:

- (1) **Wastewater treatment tank systems that are not part of a wastewater treatment facility regulated under section 402 or 307(b) of the federal Water Pollution Control Act (33 U.S.C.A. 1251 et seq., as amended through January 16, 2014);**
- (2) **Aboveground storage tanks associated with:**
 - (a) **Airport hydrant fuel distribution systems referenced under paragraph (F) of rule 1301:7-9-06 and paragraph (H) of rule 1301:7-9-07 of the Administrative Code; or**
 - (b) **UST systems with field-constructed tanks referenced under paragraph (F) of rule 1301:7-9-06 and paragraph (H) of rule 1301:7-9-07 of the Administrative Code;**
- (3) **UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 U.S.C.A. 2011 as amended through January 16, 2014 and following); and**
- (4) **UST systems that are part of an emergency generator system at nuclear power generation facilities licensed by the nuclear regulatory commission and subject to nuclear regulatory commission requirements regarding design and quality criteria, including but not limited to 10 C.F.R. part 50.**

(F)(D) Notwithstanding paragraph (A) of rule 1301:7-9-06 of the Administrative Code, no **No** owner or operator shall install an UST system listed in **paragraphs (E)(1), (E)(3), or (E)(4) of this rule paragraph (A) of rule 1301:7-9-06 of the Administrative Code** for the purpose of storing a regulated substance unless the UST system complies with all of the following:

- (1) The UST system is installed and constructed in such a manner so as to prevent releases of the regulated substance due to corrosion or structural failure for the operational life of the UST system;
- (2) The UST system is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material, or designed in a manner to prevent a release or threatened release of any stored substance; and

(3) Is constructed or lined with material that is compatible with the stored substance.

(G) Where any provision in this chapter creates a duty of compliance for an owner and operator, and the owner and operator are separate persons, compliance may be attained by either person. In the event of noncompliance, both are liable.

DRAFT OCTOBER 2016