

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3745-112-08

Rule Type: Amendment

Rule Title/Tagline: Test methods.

Agency Name: Ohio Environmental Protection Agency

Division: Division of Air Pollution Control (DAPC)

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 4/5/2022
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 3704.03(E)
5. **What statute(s) does the rule implement or amplify?** 3704.03(A), 3704.03(E)
6. **What are the reasons for proposing the rule?**

This rule is being proposed to adopt a more recent version of the Ozone Transport Commission (OTC) model rule for consumer products, and to make amendments identified during a five-year review of these rules in accordance with Ohio Revised Code (ORC) Section 106.03.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule specifies the test methods that shall be employed to show compliance with the VOC content limits of consumer products listed in OAC Chapter 3745-112. This

rule is being amended to eliminate unnecessary restrictions and conform to LSC and agency formatting standards.

- 8. Does the rule incorporate material by reference? Yes**
- 9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule contains references to the Ohio Administrative Code (OAC) and Ohio Revised Code (ORC). While copies of these rules and statutes are generally available to the public through libraries and on-line sources, including the Ohio EPA website, ORC 121.76(A) exempts such references from the provisions of ORC 121.71 through 121.75.

The rule also contains references to analytical test methods used to determine parameters for materials subject to this rule or other materials utilized by regulators and impacted parties to determine or achieve compliance with these rules. These test methods and materials are commonly known and utilized by laboratories performing this type of analytical work. Copies of these test methods are available in libraries and the websites for ASTM.

Referenced materials are cited, dated and availability noted in paragraph (C) of this rule.

- 10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

- 11. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

Not applicable.

- 12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

This rule specifies the test methods that shall be employed to show compliance with the VOC contents of consumer products. The requirement for testing is included in OAC rule 3745-112-03, therefore, any cost of compliance with testing are not related to this rule.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No
14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C).** Yes
15. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not applicable.

III. Common Sense Initiative (CSI) Questions

16. **Was this rule filed with the Common Sense Initiative Office?** Yes
17. **Does this rule have an adverse impact on business?** No
 - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business?** No
 - B. **Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms?** No
 - C. **Does this rule require specific expenditures or the report of information as a condition of compliance?** No
 - D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies?** No

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. **Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95?** Yes

- A. **How many new regulatory restrictions do you propose adding?** 0
- B. **How many existing regulatory restrictions do you propose removing?** 1

Removed Restriction: 3745-112-08(A): "...to determine the VOC content of the product (or in the case of charcoal lighter material, its emissions per start). Such testing shall be performed utilizing the test methods..." (deleted ". Such testing shall be performed")

Rule Summary and Fiscal Analysis

Part C - Environmental Rule Questions

Pursuant to Am. Sub. H.B. 106 of the 121st General Assembly, prior to adopting a rule or an amendment to a rule dealing with environmental protection, or containing a component dealing with environmental protection, a state agency shall:

- (1) Consult with organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment.
- (2) Consider documentation relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or rule amendment.
- (3) Specifically identify whether the proposed rule or rule amendment is being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program, whether the proposed rule or rule amendment is more stringent than its federal counterpart, and, if the proposed rule or rule amendment is more stringent, the rationale for not incorporating its federal counterpart.
- (4) Include with the proposed rule or rule amendment and rule summary and fiscal analysis required to be filed with the Joint Committee on Agency Rule Review information relevant to the previously listed requirements.

(A) Were organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment consulted? Yes

Please list each contact.

A draft of these rules was released for a 30-day public comment and review period ending January 25, 2022. The rules were released to Ohio EPA's electronic interested parties list, posted on Ohio EPA's regulations website and shared with interested industry parties. Several comments were received on Ohio EPA's rulemaking effort. Ohio EPA's response to comments document can be provided upon request. A copy of Ohio EPA's interested parties distribution list can be made available upon request.

(B) Was documentation that is relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or amendment considered? Yes

Please list the information provided and attach a copy of each piece of documentation to this form. (A SUMMARY OR INDEX MAY BE ATTACHED IN LIEU OF THE ACTUAL DOCUMENTATION.)

In developing the proposed rule Ohio EPA reviewed the Ozone Transport Commission (OTC) model rules. Ohio EPA also reviewed a focused survey to better understand existing

practices related to product distribution and regional differences in product formulation standards. The focused survey is available at https://epa.ohio.gov/static/Portals/27/sip/ozone/LADCO_VCP_Focus_Survey_Final_Memo_08Jun2021.pdf.

- (C) Is the proposed rule or rule amendment being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program? Yes**

Is the proposed rule or rule amendment more stringent than its federal counterpart?

No Not Applicable

- (D) If this is a rule amendment that is being adopted under a state statute that establishes standards with which the amendment is to comply, is the proposed rule amendment more stringent than the rule that it is proposing to amend? No**