

Rule Summary and Fiscal Analysis (Part A)**Ohio Environmental Protection Agency**

Agency Name

Division of Air Pollution Control (DAPC)

Division

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3745-18-12

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Auglaize county emission limits.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**2. Are you proposing this rule as a result of recent legislation? **No**3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**4. Statute(s) authorizing agency to adopt the rule: **3704.03(E)**5. Statute(s) the rule, as filed, amplifies or implements: **3704.03(A), 3704.03(E)**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being filed to fulfill the requirements of ORC 106.03 (5-yr review) and to make amendments to update the rule language.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule contains emission limits for sulfur dioxide in Auglaize county. This rule is

being presented as rescind/new because changes were made to more than 50% of the existing language.

The most significant change to this rule involves deleting and/or amending requirements for facilities or emissions units that have permanently shut down, changed ownership, or made other changes at the facility requiring updating in the rules. These rules were initially promulgated in the 1970's and 1980's to memorialize emissions limitations for specific emission sources in the state of Ohio that were necessary for Ohio to demonstrate attainment of the sulfur dioxide national ambient air quality standard. USEPA required that the emission limits for these units be written into the rules to become an official part of Ohio's State Implementation Plan (SIP).

In the 30+ years since these emission limits were incorporated into Ohio's SIP, many of these emission sources have been permanently shut down, have changed ownership, have been re-permitted with differing emissions unit identification, or have otherwise made changes that warrant updating to one or more of the rules in this chapter. After discussions with USEPA, it was determined that Ohio EPA could and should remove these sources from our rules to ease confusion over limits for facilities or emissions units that no longer exist. DAPC will be removing sources from the rules that: 1) are located at fully closed (permanently shutdown) facilities as verified in Ohio EPA's STARS2 database; 2) the facility or emission unit is not included in the STARS2 database, but Ohio EPA has some form of written evidence of a permanent shut down; or 3) contain a shutdown unit that was previously amended by zeroing out the emissions limits in the rule to preserve the facility for potential use as an offset, as it is not necessary for the facility to be in the rules to be used as an offset as historically believed.

These facilities would not be able to restart, if desired, without completing a new permit-to-install which would result in new modeling and alternate emission limitations that meet today's best available technology requirements. The removal of these sources is being performed to ease confusion over retaining regulations with emission limits for facilities that no longer exist.

Ohio EPA is also making minor changes to correct typos and update formatting to match agency and LSC formatting conventions.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not

incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

Not Applicable

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not Applicable

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

This rule contains emission limits for sulfur dioxide in Auglaize county. The requirements to comply with these limits are contained in OAC rule 3745-18-03. There is no cost of compliance with this rule.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **Yes**

You must complete the Environmental rule Adoption/Amendment Form in order to comply with Am. Sub. 106 of the 121st General Assembly.

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

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**

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Environmental Rule Adoption/Amendment Form

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.
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- (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 August 26, 2016. 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.)

Clean Air Act, facility records on Stars2 electronic permitting system, survey of historic records from Ohio EPA District Offices and Local Air Agencies, and comments submitted by interested parties and affected facilities.

- (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**