

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

Agency Name

Division of Air Pollution Control (DAPC)

Division

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3745-21-09

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

**Control of emissions of volatile organic compounds from
stationary sources and perchloroethylene from dry cleaning
facilities.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **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 proposed to amend rule language in paragraph (DDD) as described below.

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:

On May 9, 2012, the US EPA Administrator signed a notice of final rulemaking determining that onboard refueling vapor recovery (ORVR) systems are in widespread use throughout the motor vehicle fleet which was published in the Federal Register on May 16, 2012 (77 FR 28772). In that notice the Administrator also exercised her authority to waive the statutory requirement that Serious, Severe, and Extreme ozone nonattainment areas adopt and implement EPA programs requiring Stage II vapor recovery systems at certain gasoline dispensing facilities (GDFs). The current stage II vapor control requirements are applicable to GDFs in the Cleveland, Cincinnati, and Dayton metropolitan areas (24 counties in total). These counties had been designated as "moderate" ozone non-attainment under the 1990 Clean Air Act Amendments. U.S. EPA allows states to drop the Stage II vapor control requirements if the state "makes up" the emission reductions as part of the Stage II requirements removal. Ohio EPA has conducted an emissions analysis and has determined the Stage II program will no longer provide any emission reduction benefits in 2017.

In light of the formal declaration by U.S. EPA that the ORVR are in widespread use, Ohio EPA has determined that it is necessary to make amendment to paragraph (DDD) of this rule allowing existing GDFs to decommission their stage II systems. Ohio EPA previously amended this rule on April 29, 2013, exempting new GDFs from the Stage II requirements.

Specifically, Ohio EPA is deleting paragraph (DDD)(4)(g)(i)(b) from the rule and adding paragraphs (DDD)(5)(d) and (DDD)(5)(e). Paragraph (DDD)(5)(d) contains the requirements to be followed when decommissioning a Stage II system at an existing GDF. The requirements of paragraph (DDD)(5)(d) will become effective January 1, 2014 or upon the effective date of the amended rule, whichever is later.

Paragraph (DDD)(5)(e) requires that, by January 1, 2017, all existing GDFs with a Stage II vapor control system will have decommissioned that system according to the requirements of paragraph (DDD)(5)(d). Paragraph (DDD)(5)(e) also allows exemptions from decommissioning for GDFs that can demonstrate that is either infeasible to remove their systems or a substantial economic hardship. This exemption allows an extension of one year to the deadline for these facilities.

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 rule contains references to the Ohio Administrative Code (OAC). While copies of these rules 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.

This rule also contains references to the Code of Federal Regulations (CFR). These rules are generally available through libraries, Ohio EPA and U.S. EPA websites. CFR references have also been dated to reference the specific version of the rules. ORC 121.75(D) exempts such references from the requirements of ORC 121.71 through 121.74.

This rule also contains references to the United States Code (USC) and acts of congress. These rules are generally available through libraries, Ohio EPA and Government Printing Office's websites. USC references have also been dated to reference the specific version of the rules. ORC 121.75(D) exempts such references from the requirements of ORC 121.71 through 121.74.

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 website for (ASTM, ANSI, NFPA, NACE, etc.).

Referenced materials are cited, dated and availability noted in paragraph (JJ) of rule 3745-21-01 of the Administrative Code.

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:

Not Applicable

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. 119.032 Rule Review Date: **8/25/2013**

(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 is applicable to emissions of VOCs from stationary sources in the state of Ohio. This rule has been in effect in Ohio for more than 30 years and in that time has been applied to thousands of sources operating in the state. This rule is an important part of Ohio's state implementation plan (SIP) to attain and maintain the national ambient air quality standards (NAAQS) as required in Section 110 of the Clean Air Act.

The proposed amendment in paragraph (DDD) of this rule deal with the requirements for gasoline dispensing facilities to employ stage II vapor control

systems. The amendments eliminates the requirements for "existing gasoline service stations" to continue to operate stage II systems. This is in addition to an exemption adopted earlier this year (May, 2013) eliminating the requirements for new and modified gasoline dispensing facilities.

Industry sources estimate that existing facilities will experience a savings of between \$2,000 and \$4,000 per year in testing and maintenance costs for the stage II system that will no longer be necessary.

Ohio EPA's amendments do require facilities to replace these stage II systems with low-permeation hoses and to provide a one-time letter documenting that the facility has eliminated its stage II system in compliance with the rules. Ohio EPA estimates that the requirement for low-permeation hoses will add approximately \$300 per year in maintenance costs for each facility and that the one-time letter will cost the facility between \$100 and \$500 to prepare. Overall, the net savings to existing facilities that eliminate their stage II systems under this rule will be \$1,700 to \$3,700 per year in addition to the capital cost savings.

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**

This rule is frequently cited in permits-to-install (PTI) and permits-to-install and operate (PTIO) issued by Ohio EPA pursuant to the requirements of OAC chapter 3745-31, but the rule itself does not require that the facility obtain such permit.

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**

The penalties for non-compliance with the requirements of this rule are listed elsewhere in the administrative and revised codes.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

This rule does outline reporting and recordkeeping requirements. The amendments to this rule reduce the requirements on existing Gasoline Dispensing Facilities by removing their requirements for operation of Stage II vapor recovery systems and the associated recordkeeping and reporting. Based on Ohio EPA's analysis, these reporting requirements can be removed and still be protective of the environment.

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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.

Ohio EPA invited interested parties to comment on this rule during the period of September 5, 2013 to October 7, 2013. No comments were received on the proposed amendments. A list of interested parties will be furnished 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

Federal guidance on Stage II elimination

Discussions and Meetings with Industry and Trade Associations from the Gasoline Dispensing Industry

LSC Style and Formatting Manual.

- (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**