

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3745-21-10

Rule Type: Amendment

Rule Title/Tagline: Compliance test methods and procedures.

Agency Name: Ohio Environmental Protection Agency

Division: Division of Air Pollution Control (DAPC)

Address: 50 W. Town St Suite 700 Columbus OH 43215

Contact: Michael Maleski

Email: michael.maleski@epa.ohio.gov **Phone:** 614-644-1961

I. Rule Summary

1. Is this a five year rule review? No
 - A. What is the rule's five year review date? 7/13/2020
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(E), 3704.03(A)
6. What are the reasons for proposing the rule?

DAPC received several comments and requests since the last 5-year review that necessitate reopening several rules in OAC Chapter 3745-21.

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

This rule identifies VOC emission and control requirements for several source categories that emit VOC. This rule is being amended as follows:

- revise paragraph (B)(4) to add the test method for reactive adhesives (40 CFR Part 63, Subpart PPPP, Appendix A).

- remove the phrase "except that the gasoline throughput during any test shall be not less than ninety per cent of the maximum throughput of the loading rack and not less than eighty thousand gallons" from OAC rule 3745-21-10(E)(2).

- 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. 121.71 to 121.76, 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). 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.

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), the Federal Insecticide, Rodenticide, and Fungicide Act, and the Clean Air Act. These rules and Acts 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 websites of the method's supporting organization (ASTM, ANSI, NFPA, NACE, etc.).

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

- 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. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

Not applicable

Not applicable

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

The cost of compliance is based on the method required to determine compliance with emission limits in other rules and varies widely and is facility specific. Costs would range from "no cost" for using manufacturer-provided coating formulation data to fifteen thousand dollars for an emissions test.

The proposed rule revisions will not increase the cost of compliance and may reduce the compliance costs in some instances.

- 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**

III. Common Sense Initiative (CSI) Questions

- 15. Was this rule filed with the Common Sense Initiative Office? Yes**
- 16. Does this rule have an adverse impact on business? Yes**
- 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? Yes**

Violation of this rule could subject the owner or operator to potential civil, administrative or criminal penalties in accordance with ORC Chapter 3704. However, Ohio EPA does not assign fines and penalties for first-time offenders, and prefers to obtain compliance through outreach first and, if needed, written notice of violations prior to any type of formal enforcement.

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

For facilities performing a compliance test per this rule, an intent to test notification and final test report are required to be submitted.

The cost of compliance is based on the method required to determine compliance with emission limits in other rules and varies widely and is facility specific. Costs would range from "no cost" for using manufacturer-provided coating formulation data to fifteen thousand dollars for an emissions test.

The proposed rule revisions will not increase the cost of compliance and may reduce the compliance costs in some instances.

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.

Ohio EPA invited interested parties to comment on this rule during the period of March 21, 2018 to April 25, 2018. Comments received were considered and appropriate revisions to the rules were made. 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.

U.S. EPA Control Technique Guidance Documents.

Comments from interested parties.

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