

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 3745-21-24

**Rule Type:** Amendment

**Rule Title/Tagline:** Flat wood paneling coatings.

**Agency Name:** Ohio Environmental Protection Agency

**Division:**

**Address:** 50 West Town Street, Suite 700 PO Box 1049 Columbus OH 43216-1049

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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? 11/29/2021
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 filed to fulfill the requirements of ORC 106.03 (5-yr review) and to adopt mandatory Reasonably Available Control Technology (RACT) requirements for the Cincinnati and Cleveland 2015 ozone nonattainment areas.

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

This rule establishes emission control requirements for sources of VOC's in the flat wood paneling coating industry. This rule is being amended to expand CTG requirements to the Cincinnati nonattainment area.

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). 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.

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 (JJ) 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.

Ohio EPA's website is converting to the State of Ohio IOP platform during the comment period for this rule-making, therefore the link to the rules in the public notice would no longer work. Ohio EPA is revise filing to change the public notice to the updated web location.

## 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?**

OAC Chapter 3745-21 has been in the OAC since 1972. The rules have evolved over the years to address requirements in the Clean Air Act to develop regulations as part of an effort to achieve the NAAQS for CO and ozone within the state. These rules and additional technical support were submitted to U.S. EPA for review and approval as part of the SIP.

This Chapter has been modified over the years to incorporate requirements for categories of sources for which U.S. EPA has indicated that RACT should apply. In general, the levels of control that are available have been evaluated and presented in a series of CTGs issued by U.S. EPA. There are also rules based on information provided by U.S. EPA for other sources which were identified as non-CTG RACT.

Given the many and varied types of processes that are regulated under OAC chapter 3745-21, it is difficult to give an exact cost of compliance with the rules in this chapter in a limited space. The cost of compliance with these rules can range from zero cost for a control technology such as a work practice or raw material change, to a few million dollars for the installation and operation of a mechanical control device. As part of the permitting process, facilities can perform a RACT analysis which allows them to determine, based on all technologies available, the best and most cost-effective control strategy for their facility.

This rule has been in effect for several years. Most of the costs associated with compliance with the existing requirements of this rule have been addressed in previous rulemakings and have been well established in the industry. There may be some additional cost of compliance related to the expansion of the requirements in the Cincinnati ozone nonattainment area in order to meet mandatory RACT requirements; however, many of the facilities affected by this expansion may already meet the requirements and not incur additional costs.

It should be noted that CTG based rules similar to Ohio's rules can also be found in Ohio's neighbor states and in any state containing a moderate ozone non-attainment area. Facilities wishing to locate in these types of areas will need to meet these requirements in all states.

**13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes**

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? Yes
  - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes

An affected facility is required to submit a notification to the Ohio EPA district office or local air agency in writing that states that the facility is subject to this rule. A new permit is required if the facility does not already possess a complying 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
  - C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

The rule requires periodic submission of reports that typically include deviations from requirements and exceedances of emissions limits. These costs are discussed in the fiscal analysis for this rule.
  - 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? 2**

New restriction: OAC 3745-21-24(J)(3): The owner or operator of a facility that is subject to this rule, is located in Butler, Clermont, Hamilton or Warren county, and has an initial startup of a flat wood paneling coating line before the effective date of this rule shall notify the appropriate Ohio EPA district office or local air agency in writing that the flat wood paneling coating line is subject to this rule not later than sixty days after the effective date of this rule, providing the information specified in paragraph (L)(5) of this rule.

Removed restriction 1: OAC 3745-21-07(M)(5)(e)(i): ...for purposes of this paragraph, shall provide... (removed shall)

Removed restriction 2: OAC 3745-21-07(M)(5)(e)(i): ...the best available technology determination must comply with Section 193 of the Clean Air Act... (changed "must comply" to "complies")

New restriction: OAC 3745-21-24(J)(4): The owner or operator of a facility that is subject to this rule, is located in Butler, Clermont, Hamilton or Warren county, and has an initial startup of a flat wood paneling coating line on or after the effective date of this rule shall notify the appropriate Ohio EPA district office or local air agency in writing that the flat wood paneling coating line is subject to this rule not later than either the date of initial startup of the flat wood paneling coating line or sixty days after the effective date of this rule (whichever is later), providing the information specified in paragraph (L)(5) of this rule.

Removed restriction 1: OAC 3745-21-07(M)(5)(e)(iii): The permit-to-install shall contain terms and conditions... (changed "shall contain" to "contains")

Removed restriction 2: OAC 3745-21-07(M)(5)(e)(iii): The permit-toinstall shall be issued by the Ohio EPA (changed "shall be" to "and that is")

**B. How many existing regulatory restrictions do you propose removing? 0**

## Rule Summary and Fiscal Analysis

### Part B - Local Governments Questions

**1. Does the rule increase costs for:**

<b>A. Public School Districts</b>	No
<b>B. County Government</b>	Yes
<b>C. Township Government</b>	Yes
<b>D. City and Village Governments</b>	Yes

**2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.**

OAC Chapter 3745-21 has been in the OAC since 1972. The rules have evolved over the years to address requirements in the Clean Air Act to develop regulations as part of an effort to achieve the NAAQS for CO and ozone within the state. These rules and additional technical support were submitted to U.S. EPA for review and approval as part of the SIP.

This Chapter has been modified over the years to incorporate requirements for categories of sources for which U.S. EPA has indicated that RACT should apply. In general, the levels of control that are available have been evaluated and presented in a series of CTGs issued by U.S. EPA. There are also rules based on information provided by U.S. EPA for other sources which were identified as non-CTG RACT.

Given the many and varied types of processes that are regulated under OAC chapter 3745-21, it is difficult to give an exact cost of compliance with the rules in this chapter in a limited space. The cost of compliance with these rules can range from zero cost for a control technology such as a work practice or raw material change, to a few million dollars for the installation and operation of a mechanical control device. As part of the permitting process, facilities can perform a RACT analysis which allows them to determine, based on all technologies available, the best and most cost-effective control strategy for their facility.

This rule has been in effect for several years. Most of the costs associated with compliance with the existing requirements of this rule have been addressed in previous rulemakings and have been well established in the industry. There may be some additional cost of compliance related to the expansion of the requirements in the

Cincinnati ozone nonattainment area in order to meet mandatory RACT requirements; however, many of the facilities affected by this expansion may already meet the requirements and not incur additional costs.

It should be noted that CTG based rules similar to Ohio's rules can also be found in Ohio's neighbor states and in any state containing a moderate ozone non-attainment area. Facilities wishing to locate in these types of areas will need to meet these requirements in all states.

- 3. Is this rule the result of a federal government requirement? Yes**
- A. If yes, does this rule do more than the federal government requires? No**
- B. If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**

*Not Applicable*

- 4. Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:**

**A. Personnel Costs**

See above.

**B. New Equipment or Other Capital Costs**

See above.

**C. Operating Costs**

See above.

**D. Any Indirect Central Service Costs**

See above.

**E. Other Costs**

See above.

- 5. Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.**

Ohio EPA acknowledges that there will be an increase in costs associated with the expansion of the requirements in the Cincinnati ozone nonattainment area in order

to meet mandatory RACT requirements; however, many of the facilities affected by this expansion may already meet the requirements and not incur additional costs. Facilities that are affected will need to adjust their operational and maintenance budgets accordingly. These budgets are typically financed through a general fund.

**6. What will be the impact on economic development, if any, as the result of this rule?**

These rules are being promulgated to implement federal requirements for the application of reasonably available control technology to source categories of VOC in moderate ozone non-attainment areas. Rules governing VOC for these source types are in effect in many places around the country, and are not unique to the area covered by this rule. Therefore, any potential economic impact in the affected area would be minimal.

Reducing emissions benefits the affected area by providing a cost savings and economic benefit to stakeholders through reduced pollution. Not only does reducing pollution provide for better enjoyment of the states resources through cleaner air but also reduces property damage caused by pollution, reduces illnesses and reduces healthcare costs. The cost benefits, although difficult to quantify, are significant and may exceed the cost incurred by regulated entities required to comply with VOC RACT rules.



## 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.

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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 June 18, 2021. 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, USEPA Control Technique Guidance Documents, LSC Style and Formatting Manual, and comments from interested parties.

- (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