

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

Agency Name

**Division of Hazardous Waste Management
(DHWM)**

Division

Kit Arthur

Contact

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3745-273-13

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

**Waste management - standards for small quantity handlers of
universal waste.****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: **3734.12**

5. Statute(s) the rule, as filed, amplifies or implements: **3734.12**

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

This rule is filed to make changes to match recent changes to its federal counterpart provision, and to correct a format error.

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:

The content of this rule is waste management standards for small quantity handlers of universal waste, which includes types of batteries, pesticides, mercury-containing equipment, and lamps. It includes discussion of component recovery.

Proposed changes to this rule include changing the term "thermostat" to the broader term "mercury-containing equipment" in several locations, the addition of some clarifying phrases, and several small new paragraphs regarding the handling of mercury. The indenting (format) of the ending bracketed comment is also corrected. A detailed list of the specific changes to this rule is provided in Attachment A to this RSFA.

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 referenced materials which may include federal statute, federal regulation, government documents, private documents, or references to other Ohio Administrative Code (OAC) rules. All of these materials are generally available on the worldwide web, through libraries, or from other sources. Ohio Revised Code (ORC) 121.75 (A), (D), and (E) exempt federal codes, a regulation in the Code of Federal Regulations, and generally available text or other material, respectively, from the requirements of ORC 121.71 to 121.74. All citations in this rule that meet the definition of a rule by reference, their dates, and their availability are listed in OAC rule 3745-50-11 titled Incorporated by reference.

ORC sections and OAC rules that meet the definition of a rule by reference are generally available to the public either online or through libraries. Additionally, ORC 121.76(A)(1) and (A)(3) exempt such sections and rules from the requirements of ORC 121.71 to 121.75.

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:

Not Applicable.

12. 119.032 Rule Review Date: **Exempt**

(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

This proposed rule will not change the projected budget of Ohio EPA during the current biennium.

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:

We cannot provide an estimate of the cost of compliance with this rule because we do not have data on the number of mercury-containing devices (MCDs) being generated or how they are currently being managed. For those entities that currently

dispose of their MCDs lawfully, and choose not to manage them under this rule, there is no associated increased cost of compliance. For those same entities that choose to manage their MCDs under this rule, the cost of compliance will decrease because this rule reduces the requirements for managing MCDs. For those entities that currently recycle their MCDs and that choose to manage them under this rule, the cost of compliance will increase minimally because this rule imposes labeling and packaging requirements. Many MCD recyclers require their customers to safely package MCDs.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

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.

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
Yes	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

We cannot provide an estimate in dollars of the cost of compliance with this rule for these entities because we do not have data on the number of mercury-containing devices (MCDs) they generate or how they are currently managing their MCDs. For those entities that currently dispose of their MCDs lawfully, and choose not to manage them under this rule, there is no associated increased cost of compliance. For those same entities that choose to manage their MCDs under this rule, the cost of compliance will decrease because this rule reduces the requirements for managing MCDs. For those entities that currently recycle their MCDs and that choose to manage them under this rule, the cost of compliance will increase minimally because this rule imposes labeling and packaging requirements. It should be noted that many MCD recyclers require their customers to safely package MCDs.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the

major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

See above.

(a) Personnel Costs

(b) New Equipment or Other Capital Costs

(c) Operating Costs

(d) Any Indirect Central Service Costs

(e) Other Costs

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

See above.

7. Please provide a statement on the proposed rule's impact on economic development.

See above.

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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.

The draft rules were available on our web site from September 1 to October 15, 2009 for anyone to access, review, and comment on, and we sent electronic notification to a large number of people regarding the availability of the draft hazardous waste rule changes. The hazardous waste rule-making Interested Parties mailing list (U.S. mail) is extensive, and includes regulated entities, consultants and attorneys, public interest groups, citizens, and governmental entities. They received the same Interested Parties letter that we posted on-line. A copy of the Interested Parties mailing list is 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.)

The documents considered in the development of this rule include the federal equivalent counterpart regulation (40 CFR 273.13), the Federal Registers documenting the changes to that federal regulation, the LSC Manual, and the Ohio Revised Code.

- (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**

- (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**

Not Applicable

Rule 3745-273-13 is amended as follows:		
Location	Change	Reason
(C),	-1 st sentence [header]: remove “thermostats” and add “mercury-containing equipment” -2 nd sentence: remove “thermostats” and add “mercury-containing equipment”	FR 8/ 5/05
(C)(1)	1 st sentence: -remove “contain” and add “place in a container” -remove “thermostat” and add “mercury-containing equipment with non-contained elemental mercury or” -at the end, remove “in a container” 2 nd sentence: -after “contents of the” remove “thermostat” and add “device” -after “conditions” add “and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means”	FR 8/ 5/05
(C)(2)	remove “thermostats” and add “mercury-containing equipment”	FR 8/ 5/05
(C)(2)(a)	after “Removes” add “and manages”	FR 8/ 5/05
(C)(2)(c)	after “broken ampules” remove the comma	FR 8/ 5/05
(C)(3)-(C)(3)(b) [new]	add new paragraphs	FR 8/ 5/05
(C)(3) [old]	re-designate as new (C)(4)	FR 8/ 5/05
(C)(4)(a) [as re-designated]	remove “thermostats” and add “mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing”	FR 8/ 5/05
(C)(4)(a)(ii) [as re-designated]	-after “mercury-containing ampules” add “or housings” -after “(e.g.,” add “the” -remove “thermostat units” and add “mercury-containing device”	FR 8/ 5/05
(C)(4)(b) [as re-designated]	after “must manage it” remove “subject to” and add “in compliance with”	FR 8/ 5/05
(D)	remove “Lamps” and add “Universal waste lamps”	a

Rule 3745-273-13 is amended as follows:		
Location	Change	Reason
ending [Comment]	remove the indented bracketed comment and add the same comment not indented	b, *

- a This change puts the fourth paragraph/subject in the same format as the first three paragraphs/subjects.
- b This amendment corrects the format/structure of the rule at this location.
- * This amendment addresses a comment received on the Interested Parties draft rule.