

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3745-273-13

Rule Type: Amendment

Rule Title/Tagline: Waste management - standards for small quantity handlers of universal waste.

Agency Name: Ohio Environmental Protection Agency

Division: Division of Environmental Response and Revitalization (DERR)

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

Contact: Kit Arthur **Phone:** 614-644-2932

Email: Katherine.Arthur@epa.ohio.gov

I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 7/20/2022
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? 3734.12
5. What statute(s) does the rule implement or amplify? 3734.12
6. What are the reasons for proposing the rule?

This rule is proposed to accomplish its required 5-year review, and to update it to improve its equivalence to its amended federal counterpart provision, 40 CFR 273.13.

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

This rule provides the waste management standards for small quantity handlers of universal waste.

Amendments include removal of unnecessary text, and corrections to punctuation and cross-references. In paragraphs (B), (F)(5), and (F)(6), a phrase is re-located within the paragraph to improve readability. Paragraph (E) regarding Ohio-specific aerosol containers is removed and replaced by federally-equivalent (E) regarding aerosol cans.

- 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 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 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.

- 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. 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?**

Although there is a cost of compliance associated with this rule, we cannot develop an accurate cost of compliance estimate for this rule due to the number of variables involved. The cost will vary depending on the specific circumstances, including the amount and types of hazardous waste that is managed, and the methods used to manage them. These proposed amendments do not add to the cost of compliance with this rule. Compliance is already required by federal regulation.

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
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? No
 - 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
 - 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? 6

In new (E)(1), the following phrase is added: Universal waste aerosol cans shall be accumulated in

In new (E)(2), the following phrase is added: Universal waste aerosol cans that show evidence of leakage shall be packaged

In new (E)(4), the following phrase is added: A small quantity handler of universal waste who punctures and drains their aerosol cans shall recycle the

In new (E)(4)(g), the following phrase is added: A written procedure shall be in place

In new (E)(4)(g), the following phrase is added: and a spill clean-up kit shall be provided

In new (E)(4)(g), the following sentence is added: All spills or leaks of the contents of the aerosol cans shall be cleaned up promptly.

B. How many existing regulatory restrictions do you propose removing? 17

In stricken (E)(1), the following phrase is removed: A small quantity handler of universal waste shall store

In stricken (E)(2), the following phrase is removed: prior to moving the aerosol containers to a specified accumulation area for storage, puncturing, or shipment off-site shall move the satellite accumulation container

In stricken (E)(3), the following phrase is removed: prior to moving the aerosol containers to a specified accumulation area for storage, puncturing, or shipment off-site shall move the satellite accumulation container

In stricken (E)(3), the following phrase is removed: or shall individually overpack the leaking aerosol container

In stricken (E)(4)(a), the following phrase is removed: the small quantity handler of universal waste shall use commercially available equipment,

In stricken (E)(4)(b), the following phrase is removed: The small quantity handler of universal waste shall use puncturing or crushing equipment

In stricken (E)(4)(c), the following phrase is removed: The small quantity handler of universal waste shall ensure that

In stricken (E)(4)(c)(i), the following phrase is removed: The equipment shall be located in

In stricken (E)(4)(c)(ii), the following phrase is removed: The equipment shall be protected from

In stricken (E)(4)(c)(iii), the following phrase is removed: The equipment shall be connected to

In stricken (E)(4)(d), the following phrase is removed: The small quantity handler of universal waste shall maintain the puncturing or crushing equipment

In stricken (E)(4)(e), the following phrase is removed: The small quantity handler of universal waste shall determine

In stricken (E)(4)(f), the following phrase is removed: The small quantity handler of universal waste shall train

In stricken (E)(5), the following phrase is removed: A small quantity handler of universal waste shall manage aerosol containers

In stricken (E)(5)(a), the following phrase is removed: The written approval shall be maintained on-site

In stricken (E)(6), the following phrase is removed: A small quantity handler of universal waste shall manage aerosol containers

In stricken (E)(7), the following phrase is removed: The small quantity handler of universal waste shall design,

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.

The draft rules are posted on our web site for anyone to access, review, and comment on, and we send electronic notification to a large number of people regarding the availability of new hazardous waste rule changes (draft, proposed, adopted). The hazardous waste rule-making Interested Parties contact list is extensive (approximately 3,000 email addresses for this rules package), and includes regulated entities, consultants and attorneys, public interest groups, citizens, and governmental entities. Copies of the listserv notice and the Interested Parties letter are 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 equivalent federal counterpart regulation (40 CFR 273.13), the Federal Registers documenting the need for and 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 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**