

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

Agency Name

Division of Hazardous Waste

Division

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3745-273-13

Rule Number

NEW

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 for five year review (FYR)? **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This rule replaces a rescinded rule of the same rule number. More than fifty percent of the original rule was amended and LSC requires that the rule be rescinded and proposed as new.

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 rule specifies the management requirements applicable to a handler of universal waste. The rule is amended to include management requirements for the following Ohio-specific universal wastes: aerosol containers, antifreeze, paint, and paint-related wastes.

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 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 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:

This rule does not incorporate any text or other material by reference that is not exempted from compliance with sections 121.71 to 121.74 of the Revised Code.

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:

This rule is being revised to clarify that if the collected contents from aerosol containers consists solely of paint then the collected contents is eligible to be classified as a universal waste paint.

12. Five Year Review (FYR) Date:

(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

The proposed rule will neither increase nor decrease Ohio EPA revenues or expenditures in the current biennium and will have no impact on the Ohio EPA's budget.

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:

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 the circumstances, including the amount and type of hazardous waste that is managed, and the methods used to manage the wastes.

The proposed changes allow aerosol containers, antifreeze, paint and paint-related wastes to be managed under the less burdensome universal wastes rules as compared to the traditional hazardous waste rules. The proposed changes do not increase the cost of compliance to affected persons.

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.

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**

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**

This rule does not directly impose a criminal penalty, civil penalty, or another sanction, or create a cause of action for failure to comply. However, an owner or operator of a hazardous waste management facility, including generators, subject to this rule is also required to comply with additional applicable rules in OAC Chapters 3745-50 to 3745-69, 3745-205, 3745-256, 3745-266, 3745-270, 3745-273, and 3745-279 which may impose consequences for non-compliance.

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

This rule requires a handler to develop and maintain a written procedure as to how antifreeze will be managed to prevent it from being contaminated with other hazardous wastes.

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.

Although there is a cost of compliance associated with this rule, we cannot provide an estimate in dollars of the cost of compliance for these entities because we do not have data on the amount of aerosol containers, antifreeze, paint, or paint-related wastes they generate or how they are currently managing the wastes. For those entities who currently manage aerosol containers, antifreeze paint or paint-related wastes lawfully and choose to manage them under this rule, the cost of compliance will decrease because this rule reduces the management requirements associated with these wastes.

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.

Not available.

(a) Personnel Costs

Not available.

(b) New Equipment or Other Capital Costs

Not available.

(c) Operating Costs

Not available.

(d) Any Indirect Central Service Costs

Not available.

(e) Other Costs

Not available.

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.

This is not a new requirement. There is no additional cost to the agency or local government.

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

The proposed amendment reduces the regulatory burden associated with the management of aerosol containers, antifreeze, paint, and paint-related wastes and therefore will not have an adverse impact on economic development.

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.

Nearly 4000 interested/affected parties were contacted via listserv to invite them to comment on the draft rules and inform them of the process that would be used by the agency to obtain input on this rule. In addition, the draft rules were posted on Ohio EPA's website along with an announcement of the opportunity to comment on the rules. Ohio EPA also met with the Ohio Manufacturers Association, the Ohio Paint Council, and an environmental consultant.

(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 Ohio Revised Code, particularly 3734.12, petitions for the addition of Ohio-specific universal waste to Ohio EPA's hazardous waste rules, universal waste rules from other states (Michigan, New Hampshire, Texas, and Colorado), types of aerosol container

puncturing units, and types of antifreeze recycling equipment. The information is attached to this package as attachment A.

- (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? **No**

Is the proposed rule or rule amendment more stringent than its federal counterpart?

Not Answered

- (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**