

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

Agency Name

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

Division

Kit Arthur

Contact

50 West Town Street, Suite 700 PO Box 1049**614-644-2917****614-728-1245****Columbus OH 43216-1049**

Agency Mailing Address (Plus Zip)

Phone

Fax

3745-279-43

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Used oil transportation.**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.

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 describes used oil transportation requirements, including

the DOT requirements, those for deliveries, and what to do in the event of a used oil discharge.

Proposed changes to this rule include adding a comma after a rule reference, correcting the verb tense in one location, and removing the indenting of the ending bracketed comment. 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:

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 used oil 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.

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 do not have an estimate of the cost of compliance with this rule. The cost will vary with the amount and type of used oil managed, and the method of management that is used.

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.

The proposed amendment does not add to Ohio EPA's cost of implementation. Since local governments do not have jurisdiction to implement the state hazardous waste rules, they incur no cost of implementation.

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

We do not expect an impact on economic development from this proposed amended rule.

Page E-1

Rule Number: 3745-279-43

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.
-

- (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 279.43), 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 3745-279-43 is amended as follows:		
Location	Change	Reason
(C)(3)(a)	after "49 CFR 171.15" add a comma	FR 7/14/06
(C)(5)	remove "discharged" and add "discharge"	FR 7/14/06
ending [Comment]	remove the indented bracketed comment and add the same comment not indented	a, *

a This amendment corrects the format/structure of the rule at this location.

* This amendment addresses a comment received on the Interested Parties draft rule.