

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3745-352-20

Rule Type: No Change

Rule Title/Tagline: What are my responsibilities if I am an owner or operator?.

Agency Name: Ohio Environmental Protection Agency

Division: Division of Environmental Response and Revitalization (DERR)

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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? 6/22/2022 and 06/22/2027
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? 3752.03
5. What statute(s) does the rule implement or amplify? 3752.04, 3752.05, 3752.06, 3752.07, 3752.09, 3752.10
6. What are the reasons for proposing the rule?

This rule is submitted without amendment for its required five-year review.
7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule details the responsibilities of an owner or operator of a CRO-regulated facility.
This rule is submitted without amendment as a no-change rule.
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 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 3745-352-01 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.

0.0

This rule will have no impact on revenues or expenditures. It will not change the projected budget of Ohio EPA during the current biennium.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Ohio EPA wrote this rule so that the public will not have to refer to both the statute and the rules to determine their compliance requirements. We have not identified any businesses that will be significantly affected economically by this rule.

Cost of compliance with this rule: This rule describes the responsibilities of an owner or operator that has ceased regulated operations at a reporting facility. Overall, the owner/operator must provide notification to Ohio EPA, local emergency planning committee, and local fire department. An owner/operator who has permanently ceased regulated operation must secure the facility, designate a contact person, and remove all regulated substances from the facility. The owner/operator must certify, on a form required by Ohio EPA, that all removal requirements have been completed. With that form, the owner/operator must provide additional information required by the Ohio Revised Code (ORC) Chapter 3752.

When Ohio Revised Code (ORC) Chapter 3752 went into effect in 1996, the legislature determined that an owner or operator of a subject facility will bear the cost to comply with this rule. This Ohio Administrative Code (OAC) rule reiterates the same requirements currently in ORC Chapter 3752. Therefore, this rule will not increase or decrease the cost of overall regulatory compliance requirements to Ohio businesses.

The legislature, in enacting ORC Chapter 3752, determined that the cost to the public resulting from the failure of the regulated community to take adequate security and safety precautions was too great. In 2005, for example, U.S. EPA performed 23 emergency removal actions at such facilities in Ohio. They spent approximately \$6 million on emergency responses and cleanup actions on Ohio projects in 2006. In addition, U.S. EPA spent approximately \$5.5 million in responding to the Dayton Tire and Rubber facility hazardous chemical release of 1987. The City of Dayton spent approximately \$2 million to clean up the site. These costs could have been avoided if the facility had taken security precautions.

We recognize the cost to comply with ORC Chapter 3752 and this OAC rule is facility-dependent. We estimate the cost of preparing the required notification forms will be less than \$520 for most parties. Our estimate is based on 8 hours to complete all forms, using a labor rate of \$65 per hour. Forms can be submitted electronically, at not cost. Since most facilities have adequate security measures available, we expect little cost from this requirement. We estimate the cost of a warning sign is between \$7 and \$12.

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? Yes

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? Yes

This rule includes reporting requirements if a facility has permanently ceased regulated operations. Related expenditures are discussed in the summary of estimated costs of compliance above.

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

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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 CRO rules were available on Ohio EPA's website from 12/23/2020 to 01/22/2021. Comments were due on the Interested Parties draft CRO rules on 04/18/2022. When posted to Ohio EPA's website, anyone may access, review, and comment on the draft rules. Additionally, Ohio EPA electronically notified, via listserv, interested parties regarding the draft CRO rule changes and intended no-change submittals. The hazardous waste Interested Parties listserv is extensive, including representatives from regulated entities, consultants and attorneys, public interested groups, citizens, and governmental entities. A copy of the Interested Parties letter that was posted on Ohio EPA's website 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 Chapter 3752 of 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? No**

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