

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

Agency Name

**Division of Materials and Waste  
Management (DMWM)**

Division

**Kit Arthur**

Contact

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**3745-352-20**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**What are my responsibilities if I am an owner or operator?.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

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: **3752.03**

5. Statute(s) the rule, as filed, amplifies or implements: **3752.04, 3752.05, 3752.06, 3752.07, 3752.09, 3752.10**

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

This rule is proposed correct punctuation, remove unnecessary language, correct cross-references, and re-designate existing language to simplify the structure of the rule.

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:

This rule describes the responsibilities under the CRO program of facility owners and operators.

The amendments of this rule include the correction of punctuation, removal of unnecessary language, correction of cross-references, and re-designation of existing language to simplify the structure of the rule.

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 3745-352-01 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.

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: **12/30/2011**

(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 have no impact on revenues or expenditures. It 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 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.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

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.

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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 CRO rules were available on our website from September 02, 2011 to September 27, 2011. Comments were due on the Interested Parties draft CRO rules on September 27, 2011. Anyone may access, review, and comment on these rules when posted on the website. In addition, we sent electronic notification to a large number of people regarding the availability of the draft CRO rule changes. The rule-making Interested Parties mailing list (U.S. mail) of people who received a letter from us inviting their comment is extensive (9 pages), 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.)

We considered ORC 3752 in determining the continued need for this rule.

- (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**

## RSFA Attachment A

Rule <b>3745-352-20</b> is amended as follows:		
Location	Change	Reason
(A)(2)(d)(iii)	remove quotation marks around "Toxic Substances Control Act,"	a
	[2 times] remove "as amended," after the statute reference	b, *
	remove quotation marks around "Resource Conservation and Recovery Act of 1976,"	a
(A)(2)(f)	remove quotation marks around "Hazardous Materials Transportation Act"	a, *
	remove "as amended," after the statute reference	b, *
	remove "4919.85" and add "4919.79	c
(B)(2) and its subparagraphs	re-designate paragraphs as follows: -(B)(2): remove designation -(B)(2)(a): re-designate as (B)(2) -(B)(2)(b): re-designate as (B)(3) -(B)(2)(c): re-designate as (B)(4) -(B)(2)(d): re-designate as (B)(5)	d, *

a LSC requirement; unnecessary punctuation is removed.

b Unnecessary language is removed.

c Cross-reference correction.

d Unnecessary paragraph designation (B)(2) [without text] is removed and the remaining sub-paragraphs are re-designated.

\* This amendment was made as the result of a comment on the Interested Parties draft rule.

This rule is submitted for 5-year review. Another review date will be assigned.