

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

Agency Name

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

Division

Michelle Braun

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3745-560-130

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Compost quality standards for class I composting facilities.**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: **3734.02, 3734.028, 3734.12**

5. Statute(s) the rule, as filed, amplifies or implements: **3734.02, 3734.028, 3734.029, 3734.12**

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

Ohio EPA is filing this rule to correct references to ASTM standards in "Table 1 - heavy metals". The Selenium analytical methods column is missing "6020A" after the "SW-846" method and the Zinc analytical methods column is missing a "SW-846" before method "6020A."

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:

"Table 1 - heavy metals" of this rule contains two typographical errors. The Selenium analytical methods column is missing "6020A" after the "SW-846" method and the Zinc analytical methods column is missing a "SW-846" before method "6020A." Ohio EPA will only be correcting these errors and will make no other amendments to 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 references to the Ohio Administrative Code (OAC) and the Ohio Revised Code (ORC). While copies of these rules and statutes are generally available to the public through libraries and on-line sources, including the Ohio EPA website, ORC section 121.76 (A) exempts such references from the provisions of ORC sections 121.71 through 121.74.

The rule also contains references to the analytical test methods used to determine parameters for materials subject to this rule. These test methods are commonly known and utilized by laboratories performing this type of analytical work. Copies of these test methods are available in libraries and the appropriate websites (ASTM, ANSI, NFPA, NACE, etc.).

The rule also contains references to the analytical test methods used to determine parameters for materials subject to this rule. These test methods are commonly known and utilized by laboratories performing this type of analytical work. Copies of these test methods are available in libraries and through the U.S. EPA website.

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:

Not Applicable.

12. 119.032 Rule Review Date: **4/18/2014**

(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. The rule will have no impact on Ohio EPA's budget.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

There are no expenditures necessitated by the proposed rule; therefore, no appropriations have been identified.

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:

The cost of testing all four tables in this rule ranges from a high of \$460 to a low of \$268.50 based on quotes from three laboratories. The third quote of \$360 was from a laboratory with national Seal of Testing Assurance (STA) Program certification. Some facilities in Ohio voluntarily use such voluntarily certified laboratories. The number of times that the required testing is necessary is dependent upon the operator's decisions for distribution of compost product.

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**

This rule does not directly require a license, permit, or authorization, however an owner or operator of a class one composting facility subject to this rule is required to hold both a permit and license to operate.

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? **Yes**

Failure to comply with the compost quality requirements contained in this rule may endanger human health, safety, and the environment and could result in a penalty or sanction on the owner or operator of a composting facility.

C.) Does this rule require specific expenditures or the report of information as a

condition of compliance? **Yes**

This rule may require an owner or operator of a composting facility to submit information regarding the compost quality standards and any additional sampling activities upon the director's request.

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
No	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.

This rule will only impose a cost to counties, townships, or municipal corporations that voluntarily choose to own or operate a composting facility. Comprehensive costs are outlined in the RSFA Part A document, as well as the Business Impact Analysis.

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 question number 2.

(a) Personnel Costs

See above.

(b) New Equipment or Other Capital Costs

See above.

(c) Operating Costs

See above.

(d) Any Indirect Central Service Costs

See above.

(e) Other Costs

See above.

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.

A county, township, or municipal corporation is only subject to the financial requirements imposed by the proposed rule if the county, township, or municipal corporation voluntarily chooses to own or operate a composting facility.

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

Ohio EPA is proposing to only amend this rule to correct the typographical errors; therefore, there is no anticipated impact on economic development associated with the revisions.

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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.

Interested/affected parties were contacted to inform them of the process which would be used to obtain input on this rule. Concepts regarding the content of the rule and a draft version of the rule were posted on dedicated Ohio EPA, Division of Materials and Waste Management website. Throughout the development of the rule, impacted parties were invited to submit comments on the approach being taken in the development of the rule.

Additionally, once filed with JCARR, impacted parties will be notified directly of the filing and the opportunity to comment at the public hearing and JCARR. A list of interested parties 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.)

Internally we reviewed existing rule and statute to determine what aspects needed updating, modifying, or eliminated. We considered other regulatory and non-regulatory approaches when developing this rule and also considered enforceability and criteria from the internal procedures document titled, "The Division of Solid and Infectious Waste Management's Rule Writing Manual." We released the rule for an interested party comment period, and solicited comments from both the public and industry.

- (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**