Ohio | Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Environmental Protection Agency

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Regulation/Package Title (a general description of the rules' substantive content): DERR- Hazardous Waste- Organic Air Emissions, Definition of Solid Waste (OrgAirDSW)

Rule Numbers: Rules in Chapters 3745-50 to 3745-273

Date of Submission for CSI Review: November 29, 2022

Public Comment Period End Date: January 5, 2023

Rule Type/Number of Rules:

- New/ 119 rules
- Amended/ 51 rules (FYR? 48)
- No Change/ 0 rules (FYR? 0)
- Rescinded/ 0 rules (FYR? 0)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

   Which adverse impacts to businesses has the agency determined the rules create?

   The rules:

   a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
   b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
   c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
   d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**
   Please include the key provisions of the regulation as well as any proposed amendments.

   This rule package includes 170 hazardous waste management rules regarding general requirements and permitting (Chapter 3745-50); identification and listing of hazardous waste (Chapter 3745-51); treatment, storage, and disposal standards (Chapters 3745-54, 3745-55, 3745-56, 3745-57, 3745-65, 3745-66, 3745-673745-68, 3745-69, 3745-205, and 3745-256); management of specific types of hazardous waste (Chapter 3745-266); and universal waste management (Chapter 3745-273).

   Under Federal and State law, Ohio's hazardous waste rules must match their federal Resource Conservation and Recovery Act (RCRA) counterpart rules. The amended rules in this package are all part of Ohio EPA's Hazardous Waste Management Program that has been granted authorization (primacy) by U.S. EPA to manage hazardous waste in Ohio. Ohio EPA will be seeking authorization for the new rules in this package. All rules in this package are proposed to address federally-based amendments and to correct non-substantive, minor errors previously identified in the rules during their five-year review. The following table outlines which amendments are the result of a federal-amendment and which are proposed to address previous errors:

Federal Register (FR) subject	Page and Date in FR	OAC Rules
Organic air emission standards for process vents and equipment leaks (subparts AA and BB initial promulgation)	55 FR 25454, 06/21/1990	3745-50-11, 3745-50-44, 3745-51-06, 3745-54-13, 3745-54-15, 3745-54-73, 3745-54-77, 3745-65-13, 3745-65-15, 3745-65-77, 3745-205-30 new, 3745-205-31 new, 3745-205-32 new, 3745-205-33 new, 3745-205-34 new, 3745-205-35 new, 3745-205-36 new, 3745-205-50 new, 3745-205-52 new, 3745-205-53 new, 3745-205-54 new, 3745-205-55 new, 3745-205-56 new, 3745-205-57 new, 3745-205-58 new, 3745-205-59 new, 3745-205-60 new, 3745-205-61 new, 3745-205-62 new, 3745-205-63 new, 3745-205-64 new, 3745-205-65 new, 3745-256-30 new, 3745-256-32 new, 3745-256-33 new, 3745-256-34 new, 3745-256-35 new, 3745-256-50 new, 3745-256-52 new, 3745-256-53 new, 3745-256-54 new, 3745-256-55 new, 3745-256-56 new, 3745-256-57 new, 3745-256-58 new, 3745-256-59 new, 3745-256-60 new, 3745-256-61 new, 3745-256-62 new, 3745-256-63 new, and 3745-256-64 new
TSD organic air emission standards for process vents and equipment leaks: technical amendment (subparts AA, BB)	56 FR 19290, 04/26/1991	3745-50-44, 3745-65-13, 3745-65-77, 3745-205-30 new, 3745-205-33 new, 3745-205-35 new, 3745-205-52 new, 3745-256-30 new, 3745-256-34 new, 3745-256-35 new, 3745-256-52 new, and 3745-256-64 new
Organic air emission standards for tanks, surface impoundments, and containers (subpart CC initial promulgation)	59 FR 62896, 12/06/1994	3745-50-11, 3745-50-44, 3745-50-49, 3745-54-13, 3745-54-15, 3745-54-73, 3745-54-77, 3745-55-79 new, 3745-55-100 new, 3745-56-32 new, 3745-65-13, 3745-65-15, 3745-65-77, 3745-66-78 new, 3745-66-102 new, 3745-67-31 new, 3745-205-33 new, 3745-205-80 new, 3745-205-82 new, 3745-205-83 new, 3745-205-84 new, 3745-205-85 new, 3745-205-86 new, 3745-205-87 new, 3745-205-88 new, 3745-205-89 new, 3745-205-90 new, 3745-256-33 new, 3745-256-80 new, 3745-256-81 new, 3745-256-82 new, 3745-256-83 new, 3745-256-84 new, 3745-256-85 new, 3745-256-86 new, 3745-256-87 new, 3745-256-88 new, 3745-256-89 new, and 3745-256-90 new

Federal Register (FR) subject	Page and Date in FR	OAC Rules
Subpart CC amendment	61 FR 4903, 02/09/1996	3745-54-13, 3745-65-13, 3745-205-33 new, 3745-205-82 new, 3745-205-83 new, 3745-205-84 new, 3745-205-85 new, 3745-205-86 new, 3745-205-87 new, 3745-205-88 new, 3745-205-89 new, 3745-205-90 new, 3745-256-33 new, 3745-256-81 new, 3745-256-83 new, 3745-256-84 new, 3745-256-85 new, 3745-256-86 new, 3745-256-87 new, 3745-256-88 new, and 3745-256-89 new
Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers *	61 FR 59932, 11/25/1996	3745-205-33 new, 3745-205-35 new, 3745-205-50 new, 3745-205-55 new, 3745-205-58 new, 3745-205-64 new, 3745-205-80 new, 3745-205-82 new, 3745-205-83 new, 3745-205-84 new, 3745-205-85 new, 3745-205-86 new, 3745-205-87 new, 3745-205-88 new, 3745-205-89 new, 3745-205-90 new, 3745-256-30 new, 3745-256-33 new, 3745-256-34 new, 3745-256-35 new, 3745-256-50 new, 3745-256-55 new, 3745-256-58 new, 3745-256-64 new, 3745-256-80 new, 3745-256-81 new, 3745-256-83 new, 3745-256-84 new, 3745-256-85 new, 3745-256-86 new, 3745-256-87 new, 3745-256-88 new, 3745-256-89 new, and 3745-256-90 new
Testing and monitoring activities amendment III *	62 FR 32452, 06/13/1997	3745-205-34 new, 3745-256-63 new, and 3745-266-106
Subpart CC amendments	62 FR 64635, 12/08/1997	3745-50-44, 3745-54-15, 3745-54-73, 3745-205-30 new, 3745-205-31 new, 3745-205-33 new, 3745-205-50 new, 3745-205-60 new, 3745-205-62 new, 3745-205-64 new, 3745-205-80 new, 3745-205-82 new, 3745-205-83 new, 3745-205-84 new, 3745-205-85 new, 3745-205-86 new, 3745-205-87 new, 3745-205-89 new, 3745-256-30 new, 3745-256-33 new, 3745-256-50 new, 3745-256-60 new, 3745-256-62 new, 3745-256-64 new, 3745-256-80 new, 3745-256-81 new, 3745-256-82 new, 3745-256-83 new, 3745-256-84 new, 3745-256-85 new, 3745-256-86 new, 3745-256-87 new, 3745-256-88 new, and 3745-256-90 new
Subpart CC: Clarification and technical amendments	64 FR 3381, 01/21/1999	3745-205-31 new, 3745-205-80 new, 3745-205-83 new, 3745-205-84 new, 3745-205-86 new, 3745-256-80 new, 3745-256-84 new, 3745-256-85 new, and 3745-256-87 new

Federal Register (FR) subject	Page and Date in FR	OAC Rules
NESHAP: surface coating of cars and light trucks *	69 FR 22601, 04/26/2004	3745-205-50 new, and 3745-256-50 new
Testing and monitoring activities; methods innovation rule and SW-846 final update IIIB *	70 FR 34537, 06/14/2005	3745-50-44, 3745-66-90, 3745-205-34 new, 3745-205-63 new, 3745-256-34 new, 3745-256-63 new, 3745-256-81 new, 3745-256-84 new, 3745-266-100, and 3745-266-102
NESHAP/BIF/ MACT *	70 FR 59401, 10/12/2005	3745-50-44, and 3745-50-51
Burden reduction rule *	71 FR 16861, 04/04/2006	3745-50-24, 3745-50-44, 3745-66-93, 3745-205-61 new, 3745-205-62 new, 3745-266-102, and 3745-266-103
Hazardous waste and used oil, corrections to 40 CFR *	71 FR 40254, 07/14/2006	3745-50-10, 3745-50-44, 3745-54-01, 3745-205-33 new, 3745-205-34 new, 3745-205-35 new, 3745-205-50 new, 3745-205-58 new, 3745-205-64 new, 3745-205-80 new, 3745-205-90 new, 3745-256-33 new, 3745-256-35 new, 3745-256-63 new, 3745-256-80 new, 3745-256-85 new, 3745-256-87 new, 3745-256-90 new, 3745-266-102, and 3745-266-103
Revisions to the Definition of Solid Waste (DSW #2) [DSW #1 was in a prior rulemaking]	73 FR 64667, 10/30/2008	3745-51-02, 3745-51-04, 3745-51-140 new, 3745-51-142 new, 3745-51-143 new, 3745-51-147 new, 3745-51-148 new, and 3745-51-151 new
Hazardous waste technical corrections and clarifications rule *	75 FR 12989, 03/18/2010	3745-50-49

Federal Register (FR) subject	Page and Date in FR	OAC Rules
Definition of Solid Waste (DSW #3)	80 FR 1694, 01/13/2015	3745-50-10, 3745-50-11, 3745-50-15 new, 3745-50-16 new, 3745-50-17 new, 3745-50-23, 3745-50-24, 3745-50-26, 3745-51-01, 3745-51-02, 3745-51-04, 3745-51-170 new, 3745-51-190 new, 3745-51-191 new, 3745-51-193 new, 3745-51-194 new, 3745-51-196 new, 3745-51-197 new, 3745-51-198 new, 3745-51-199 new, 3745-51-200 new, 3745-51-400 new, 3745-51-410 new, 3745-51-411 new, 3745-51-420 new, 3745-51-730 new, 3745-51-731 new, 3745-51-732 new, 3745-51-733 new, 3745-51-734 new, 3745-51-735 new, 3745-51-750 new, 3745-51-752 new, 3745-51-753 new, 3745-51-754 new, 3745-51-755 new, 3745-51-756 new, 3745-51-757 new, 3745-51-758 new, 3745-51-759 new, 3745-51-760 new, 3745-51-761 new, 3745-51-762 new, 3745-51-763 new, 3745-51-764 new, 3745-51-780 new, 3745-51-781 new, 3745-51-782 new, 3745-51-783 new, 3745-51-784 new, 3745-51-786 new, 3745-51-787 new, 3745-51-788 new, and 3745-51-789 new
Waste management system, testing and monitoring activities, notice of availability of final Update V of SW-846 (prompts update to 3745-50-11)	80 FR 48522, 08/13/2015	3745-50-11
Hazardous waste generator improvements rule *	81 FR 85732, 11/28/2016	3745-54-01, 3745-205-30 new, 3745-205-50 new, 3745-256-30 new, and 3745-256-50 new
Response to court's vacatur of certain provisions of the DSW rule (DSW #4)	83 FR 24664, 05/30/2018	3745-50-16 new, 3745-50-17 new, 3745-50-23, 3745-50-24, and 3745-51-04

Federal Register (FR) subject	Page and Date in FR	OAC Rules
Housekeeping, state-initiated amendments not directly related to the above FRs, including 5-year review amendments	Not in FRs	3745-50-10, 3745-50-11, 3745-50-23, 3745-50-24, 3745-50-26, 3745-50-44, 3745-50-49, 3745-50-51, 3745-51-01, 3745-51-02, 3745-51-04, 3745-51-06, 3745-54-01, 3745-54-10, 3745-54-13, 3745-54-15, 3745-54-73, 3745-54-77, 3745-55-17, 3745-55-18, 3745-55-70, 3745-55-90, 3745-56-20, 3745-57-40, 3745-57-91, 3745-65-01, 3745-65-13, 3745-65-15, 3745-65-73, 3745-65-77, 3745-66-17, 3745-66-18, 3745-66-70, 3745-66-90, 3745-66-93, 3745-67-20, 3745-68-40, 3745-69-01, 3745-205-200, 3745-256-200, 3745-266-22, 3745-266-80, 3745-266-100, 3745-266-102, 3745-266-103, 3745-266-106, 3745-266-107, 3745-266-111, 3745-266-112, 3745-273-13, and 3745-273-33
* We are proposing only the Subpart AA, BB, and/or CC portions of this FR.		

This package contains the following rules:

Rule Number	Rule Title (** denotes amended title)	5-year review	Action
3745-50-10	Definitions and computation of time	Review	Amend
3745-50-11	Incorporated by reference	Review	Amend
3745-50-15	Non-waste determinations	N/A	New
3745-50-16	Notification requirement for hazardous secondary materials	N/A	New
3745-50-17	Legitimate recycling of hazardous secondary materials	N/A	New
3745-50-23	Non-waste determinations and variances from classification as waste **	Review	Amend
3745-50-24	Standards and criteria for variances from classification as a waste	Review	Amend
3745-50-26	Procedures for variances from classification as a waste, for variances to be classified as a boiler, or for non-waste determinations **	Review	Amend
3745-50-44	Contents of "Part B" of the permit application	Review	Amend
3745-50-49	Effect of a permit	Review	Amend
3745-50-51	Permit modifications	Review	Amend

Rule Number	Rule Title (** denotes amended title)	5-year review	Action
3745-51-01	Purpose and scope of Chapter 3745-51 of the Administrative Code	Review	Amend
3745-51-02	Definition of waste	Review	Amend
3745-51-04	Exclusions	Review	Amend
3745-51-06	Requirements for recyclable materials	Review	Amend
3745-51-140	Applicability and definitions - financial requirements for management of excluded hazardous secondary materials	Exempt	New
3745-51-142	Cost estimate - management of excluded hazardous secondary materials	N/A	New
3745-51-143	Financial assurance condition - management of excluded hazardous secondary materials	N/A	New
3745-51-147	Liability requirements - management of excluded hazardous secondary materials	N/A	New
3745-51-148	Incapacity of owners or operators, guarantors, or financial institutions - managements of excluded hazardous secondary materials	N/A	New
3745-51-151	Wording of the instruments- management of excluded hazardous secondary materials	N/A	New
3745-51-170	Use and management of containers	N/A	New
3745-51-190	Applicability - tank systems	N/A	New
3745-51-191	Assessment of existing tank system's integrity	N/A	New
3745-51-193	Containment and detection of releases - tank systems	N/A	New
3745-51-194	General operating requirements - tank systems	N/A	New
3745-51-196	Response to leaks or spills and disposition of leaking or unfit-for-use tank systems	N/A	New
3745-51-197	Termination of remanufacturing exclusion - tank systems	N/A	New
3745-51-198	Special requirements for ignitable materials or reactive materials - tank systems	N/A	New
3745-51-199	Special requirements for incompatible materials - tank systems	N/A	New
3745-51-200	Air emission standards - tank systems	N/A	New
3745-51-400	Applicability - emergency preparedness and response for management of excluded hazardous secondary materials	N/A	New

Rule Number	Rule Title (** denotes amended title)	5-year review	Action
3745-51-410	Preparedness and prevention - emergency preparedness and response for management of excluded hazardous secondary materials	N/A	New
3745-51-411	Emergency procedures for facilities that generate or accumulate six thousand kilograms or less of hazardous secondary material	N/A	New
3745-51-420	Contingency planning and emergency procedures for facilities that generate or accumulate more than six thousand kilograms of secondary material	N/A	New
3745-51-730	Applicability - air emission standards for process vents	N/A	New
3745-51-731	Definitions - air emission standards for process vents	N/A	New
3745-51-732	Emission standards for process vents	N/A	New
3745-51-733	Closed-vent systems and control devices - process vents	N/A	New
3745-51-734	Test methods and procedures - process vents	N/A	New
3745-51-735	Recordkeeping requirements - process vents	N/A	New
3745-51-750	Applicability and definitions- air emission standards for equipment leaks	N/A	New
3745-51-752	Pumps in light liquid service - equipment leaks	N/A	New
3745-51-753	Compressors - equipment leaks	N/A	New
3745-51-754	Pressure relief devices in gas or vapor service - equipment leaks	N/A	New
3745-51-755	Sampling connection systems - equipment leaks	N/A	New
3745-51-756	Open-ended valves or lines - equipment leaks	N/A	New
3745-51-757	Valves in gas or vapor service or in light liquid service - equipment leaks	N/A	New
3745-51-758	Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and flanges and other connectors - equipment leaks	N/A	New
3745-51-759	Delay of repair - equipment leaks	N/A	New
3745-51-760	Closed-vent systems and control devices - equipment leaks	N/A	New

Rule Number	Rule Title (** denotes amended title)	5-year review	Action
3745-51-761	Alternative standards for valves in gas or vapor service or in light liquid service; percentage of valves allowed to leak - equipment leaks	N/A	New
3745-51-762	Alternative standards for valves in gas or vapor service or in light liquid service; skip period leak detection and repair - equipment leaks	N/A	New
3745-51-763	Test methods and procedures - equipment leaks	N/A	New
3745-51-764	Recordkeeping requirements - equipment leaks	N/A	New
3745-51-780	Applicability - air emission standards for tanks and containers	N/A	New
3745-51-781	Definitions - air emission standards for tanks and containers	N/A	New
3745-51-782	General standards - tanks and containers	N/A	New
3745-51-783	Material determination procedures - tanks and containers	N/A	New
3745-51-784	Tanks - air emission standards for tanks and containers	N/A	New
3745-51-786	Containers - air emission standards for tanks and containers	N/A	New
3745-51-787	Closed-vent systems and control devices - air emission standards for tanks and containers	N/A	New
3745-51-788	Inspection and monitoring requirements - tanks and containers	N/A	New
3745-51-789	Recordkeeping requirements - tanks and containers	N/A	New
3745-54-01	Purpose, scope, and applicability of Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code	Review	Amend
3745-54-10	Applicability - general facility standards	Review	Amend
3745-54-13	General waste analysis	Review	Amend
3745-54-15	General inspection requirements	Review	Amend
3745-54-73	Operating record	Review	Amend
3745-54-77	Additional reports	Review	Amend
3745-55-17	Post-closure care and use of property	Review	Amend
3745-55-18	Post-closure plan and amendment of post-closure plan	Review	Amend

Rule Number	Rule Title (** denotes amended title)	5-year review	Action
3745-55-70	Applicability - use and management of containers	Review	Amend
3745-55-79	Air emission standards - containers	N/A	New
3745-55-90	Applicability - tank systems **	Review	Amend
3745-55-100	Air emission standards - tank systems	N/A	New
3745-56-20	Applicability - surface impoundments **	N/A	New
3745-56-32	Air emission standards - surface impoundments	N/A	New
3745-57-40	Applicability - incinerators	Review	Amend
3745-57-91	Environmental performance standards-miscellaneous units	Review	Amend
3745-65-01	Purpose, scope, and applicability of Chapters 3745-65 to 3745-69 and 3745-256 of the Administrative Code	Review	Amend
3745-65-13	General waste analysis	Review	Amend
3745-65-15	General inspection requirements	Review	Amend
3745-65-73	Operating record		
3745-65-77	Additional reports	Review	Amend
3745-66-17	Post-closure care and use of property	Review	Amend
3745-66-18	Post-closure plan and amendment of post-closure plan	Review	Amend
3745-66-70	Applicability - use and management of containers	Review	Amend
3745-66-78	Air emission standards - containers	N/A	New
3745-66-90	Applicability - tanks	Review	Amend
3745-66-93	Containment and detection of releases - tanks	Review	Amend
3745-66-102	Air emission standards - tanks	N/A	New
3745-67-20	Applicability - surface impoundments	Review	Amend
3745-67-31	Air emission standards - surface impoundments	N/A	New
3745-68-40	Applicability - incinerators	Review	Amend
3745-69-01	General operating requirements and applicability - chemical, physical, and biological treatment	Review	Amend
3745-205-30	Applicability - air emission standards for process vents	N/A	New

Rule Number	Rule Title (** denotes amended title)	5-year review	Action
3745-205-31	Definitions - air emission standards for process vents	N/A	New
3745-205-32	Process vents - air emission standards for process vents	N/A	New
3745-205-33	Process vents - closed-vent systems and control devices	N/A	New
3745-205-34	Test methods and procedures - process vents	N/A	New
3745-205-35	Recordkeeping - process vents	N/A	New
3745-205-36	Reporting - process vents	N/A	New
3745-205-50	Applicability and definitions- air emission standards for equipment leaks	N/A	New
3745-205-52	Pumps in light liquid service - equipment leaks	N/A	New
3745-205-53	Compressors - equipment leaks	N/A	New
3745-205-54	Pressure relief devices in gas or vapor service - equipment leaks	N/A	New
3745-205-55	Sampling connecting systems - equipment leaks	N/A	New
3745-205-56	Open-ended valves or lines - equipment leaks	N/A	New
3745-205-57	Valves in gas or vapor service or in light liquid service - equipment leaks	N/A	New
3745-205-58	Pumps and valves in heavy liquid service, pressure relief devices in light liquid service or in heavy liquid service, and flanges and other connectors - equipment leaks	N/A	New
3745-205-59	Delay of repair - equipment leaks	N/A	New
3745-205-60	Closed-vent systems and control devices - equipment leaks	N/A	New
3745-205-61	Alternate standards for valves in gas or vapor service or in light liquid service; percentage of valves allowed to leak - equipment leaks	N/A	New
3745-205-62	Alternate standards for valves in gas or vapor service or in light liquid service; skip period leak detection and repair - equipment leaks	N/A	New
3745-205-63	Test methods and procedures - equipment leaks	N/A	New
3745-205-64	Recordkeeping - equipment leaks	N/A	New
3745-205-65	Reporting - equipment leaks	N/A	New

Rule Number	Rule Title (** denotes amended title)	5-year review	Action
3745-205-80	Applicability and definitions- air emission standards for tanks, surface impoundments, and containers	N/A	New
3745-205-82	Tanks, surface impoundments, and containers	N/A	New
3745-205-83	Waste determination procedures - tanks, surface impoundments, and containers	N/A	New
3745-205-84	Tanks - air emission standards for tanks, surface impoundments, and containers	N/A	New
3745-205-85	Surface impoundments - air emission standards for tanks, surface impoundments, and containers	N/A	New
3745-205-86	Containers - air emission standards for tanks, surface impoundments, and containers	N/A	New
3745-205-87	Closed-vent systems and control devices - tanks, surface impoundments, and containers	N/A	New
3745-205-88	Inspection and monitoring - tanks, surface impoundments, and containers	N/A	New
3745-205-89	Recordkeeping - tanks, surface impoundments, and containers	N/A	New
3745-205-90	Reporting - tanks, surface impoundments, and containers	N/A	New
3745-205-200	Applicability - military munitions	Review	Amend
3745-256-30	Applicability and definitions - air emissions standards for process vents	N/A	New
3745-256-32	Process vents - air emissions standards for process vents	N/A	New
3745-256-33	Closed-vent systems and control devices - process vents	N/A	New
3745-256-34	Test methods and procedures - process vents	N/A	New
3745-256-35	Recordkeeping - process vents	N/A	New
3745-256-50	Applicability and definitions- air emission standards for equipment leaks	N/A	New
3745-256-52	Pumps in light liquid service - equipment leaks	N/A	New
3745-256-53	Compressors - equipment leaks	N/A	New
3745-256-54	Pressure relief devices in gas or vapor service - equipment leaks	N/A	New
3745-256-55	Sampling connecting systems - equipment leaks	N/A	New

Rule Number	Rule Title (** denotes amended title)	5-year review	Action
3745-256-56	Open-ended valves or lines - equipment leaks	N/A	New
3745-256-57	Valves in gas or vapor service or in light liquid service - equipment leaks	N/A	New
3745-256-58	Pumps and valves in heavy liquid service, pressure relief devices in light liquid service or in heavy liquid service, and flanges and other connectors - equipment leaks	N/A	New
3745-256-59	Delay of repair - equipment leaks	N/A	New
3745-256-60	Closed-vent systems and control devices - equipment leaks	N/A	New
3745-256-61	Alternate standards for valves in gas or vapor service or in light liquid service; percentage of valves allowed to leak - equipment leaks	N/A	New
3745-256-62	Alternate standards for valves in gas or vapor service or in light liquid service; skip period leak detection and repair - equipment leaks	N/A	New
3745-256-63	Test methods and procedures - equipment leaks	N/A	New
3745-256-64	Recordkeeping - equipment leaks	N/A	New
3745-256-80	Applicability - air emission standards for tanks, surface impoundments, and containers	N/A	New
3745-256-81	Definitions - air emission standards for tanks, surface impoundments, and containers	N/A	New
3745-256-82	Schedule to implement air emission standards - tank, surface impoundments, and containers	N/A	New
3745-256-83	General - air emission standards for tanks, surface impoundments, and containers	N/A	New
3745-256-84	Waste determination procedures - tanks, surface impoundments, and containers	N/A	New
3745-256-85	Tanks - air emission standards for tanks, surface impoundments, and containers	N/A	New
3745-256-86	Surface impoundments - air emission standards for tanks, surface impoundments, and containers	N/A	New
3745-256-87	Containers - tanks, surface impoundments, and containers	N/A	New
3745-256-88	Closed-vent systems and control devices - tanks, surface impoundments, and containers	N/A	New

Rule Number	Rule Title (** denotes amended title)	5-year review	Action
3745-256-89	Inspection and monitoring - tanks, surface impoundments, and containers	N/A	New
3745-256-90	Recordkeeping - tanks, surface impoundments, and containers	N/A	New
3745-256-200	Applicability - military munitions	Review	Amend
3745-266-22	Standards for storers who are not the ultimate users of materials that are used in a manner that constitutes disposal **	Review	Amend
3745-266-80	Applicability and requirements - spent lead-acid batteries being reclaimed	Review	Amend
3745-266-100	Applicability and requirements - boilers and industrial furnaces	Review	Amend
3745-266-102	Permit standards for burners	Review	Amend
3745-266-103	Interim standards for burners	Review	Amend
3745-266-106	Standards to control metals emissions	Review	Amend
3745-266-107	Standards to control hydrogen chloride and chlorine gas emissions	Review	Amend
3745-266-111	Standards for direct transfer	Review	Amend
3745-266-112	Regulation of residues	Review	Amend
3745-273-13	Waste management - standards for small quantity handlers of universal waste	Review	Amend
3745-273-33	Waste management - standards for large quantity handlers of universal waste	Review	Amend

3. **Please list the Ohio statutes that authorize the agency, board or commission to adopt the rules and the statutes that amplify that authority.**
   Ohio Revised Code (ORC) 3734.05 and 3734.12 provide the authority for and are amplified by these rules.

4. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**
   If yes, please briefly explain the source and substance of the federal requirement.
   Yes. Ohio's hazardous waste management rules are required to be consistent with and equivalent to their federal counterpart provisions. These rules meet that requirement. The amendments in these rules, as well as the new rules, are proposed to address the federally based concepts identified above and to correct non-substantive typos. These rules and their amendments are required in order to maintain the authorized federally based hazardous waste management program.

5. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

   None of the proposed changes to currently effective rules or proposed new rules exceed the federal requirements. All the rules in this package have been determined to be equivalent to their federal counterpart provisions, consistent with their Ohio statutory intent, or consistent with federally-based universal waste management requirements.

6. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

   In order for Ohio EPA to maintain authorization to regulate hazardous waste in Ohio, Ohio EPA must adopt new rules that are equivalent to the federal requirements. The proposed amended rules are part of the authorized program and must remain effective to maintain Ohio's authorization.

   The new proposed rules are those that were originally promulgated as part of the federal "Organic Air Emissions" and "Definition of Solid Waste" rules. These rules must be adopted by Ohio EPA in order to maintain authorization from U.S. EPA to regulate hazardous waste in Ohio, as outlined above. Those Federal Registers that will be addressed by this rulemaking are outlined above.

7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

   Ohio EPA will measure the success of these regulations through the degree of compliance with these regulations by the regulated community, the minimal occurrences of hazards to public health, safety, and the environment, and the continuation of Ohio EPA's federal authorization to regulate hazardous waste in Ohio.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**
   If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

   No. None of the rules included in this package are being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931.

Development of the Regulation

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**
   If applicable, please include the date and medium by which the stakeholders were initially contacted.

   The rules included in this package were sent for a 30-day Early Stakeholder Outreach on December 9, 2021.

10. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

Ohio EPA received four comments during the ESO comment period. One comment was related to a rule proposed in an earlier rule package (rule 3745-50-10, Definitions and computation of time) and was addressed at that time.
The three remaining comments were in support of both the state- and federally based changes that will come with Ohio's adoption of the Organic Air Emissions and Definition of Solid Waste rules. Two of these comments suggested that Ohio EPA incorporate clarifying language to distinguish the applicability to 40 CFR Part 264 (OAC Chapters 3745-54 to 3745-57 and 3745-205) vs. Part 265 (OAC Chapters 3745-65 to 3745-69 and 3745-256). These comments were not addressed in the Interested Parties draft rule.

11. **What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**
The Ohio hazardous waste rules are required by state and federal law to be equivalent to their federal counterpart rules.

12. **What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**
Alternate provisions would not be appropriate for these rules. The Ohio hazardous waste rules are required by state and federal law to be equivalent to their federal counterpart rules.

13. **Did the Agency specifically consider a performance-based regulation? Please explain.** ***Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***
No. The Ohio hazardous waste rules are required by state and federal law to be equivalent to their federal counterpart rules.

14. **What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**
When the amended rules included in this package were originally promulgated, Ohio EPA worked with LSC and the regulated community to ensure that these rules did not duplicate any other Ohio rules. These rules and/or other Ohio EPA rules have been amended in the past to eliminate duplicative requirements. Ohio EPA has worked to ensure that all new rules in this package do not duplicate any existing requirements from both Ohio EPA and other agencies. Ohio EPA is the only agency that has jurisdiction to adopt regulations governing the management of hazardous waste.

15. **Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**
Ohio EPA implementation of these rules will include notifying the regulated community of both the amendments to existing rules and the addition of the new rules. Ohio EPA will work to provide guidance to the regulated community as needed. Additionally, Ohio EPA will brief inspectors and field staff on the proposed changes, so that they will be well equipped to offer assistance as they interact with the regulated community.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community; and

The business community impacted by Ohio's hazardous waste rules consists of the businesses that generate, treat, store, dispose of, or transport hazardous waste.

b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and

There are no adverse impacts being added to the amended rules in this package or being promulgated by the new rules in this package. The costs in Ohio that may be above the costs in the corresponding federal regulations are discussed in question 5 above.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

Ohio EPA has identified no adverse impacts regarding these rule amendments or the promulgation of any new rules in this package. Amended rules in this package include those that are included to fulfill their five-year review requirement, as well as those that have been updated to match their federal counterpart rule. The proposed amendments do not impact the stringency or cost of compliance for these rules. The proposed new rules in this package are functionally equivalent to their federal counterpart and these federal rules have applied to Ohio businesses since their original promulgation in 1990 (Organic Air Emissions subparts AA, BB), 1994 (Organic Air Emissions subpart CC), and 2015 (Definition of Solid Waste). Additional information on federal equivalence is outlined below.

Regarding the rules as they exist, as a Program, for five-year review purposes.

Ohio EPA's hazardous waste management rules are required, by federal statute and rule, as well as Ohio statute, to be functionally equivalent to the final federal rules (i.e., there may be text differences from the federal rules, but the resulting requirements must be the same.) Each Ohio rule has a counterpart federal rule (there are a few exceptions to this). If the state hazardous waste rules did not exist, the federal hazardous waste rules would still apply to Ohio businesses, so any costs incurred as a result of compliance with the Ohio rules would also be incurred as a result of compliance with the federal counterpart rules. With the exception of a few Ohio statute-based fee rules, the cost of compliance for state and federal requirements would be similar.

The adverse impact of the hazardous waste management rules (state or federal) varies widely depending on the nature of the management activity being conducted by the regulated community. This can include costs of obtaining a treatment, storage, and disposal permit (which can cost over $100,000), personnel training, safety equipment,

conducting inspections and keeping records, submitting reports to Ohio EPA (electronically in many cases, which incurs a nominal cost), etc.

In promulgating the Ohio hazardous waste rules, Ohio EPA only makes changes necessary to "Ohio-ize" the finalized federal language so that the rules 1) maintain the required equivalence with the federal program, 2) do not create problems (or costs) for the citizens and industries of Ohio that were addressed and resolved during the federal comment-response process and in the federal rule promulgation process, and 3) do not create new problems (or costs) for the citizens and industries of Ohio that were not addressed in that federal comment-response and federal rule promulgation process. Equivalence and state rule stringency is reviewed by U.S. EPA Region 5 via the authorization process that is also a federal requirement (see 40 CFR Part 271).

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Ohio EPA must promulgate rules that are equivalent to their federal RCRA counterpart rules in order to maintain its authorization to regulate hazardous waste in Ohio. Without adoption of these rules, Ohio could lose its ability to regulate hazardous waste in Ohio and the impacted community would be subject to the same rules by U.S. EPA.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

The regulations provide exemptions via the following rules.

Non-waste determinations (OAC 3745-50-15 new): If a hazardous secondary material meets the criteria, as applicable, set forth in paragraphs (B) and (C) of rule 3745-50-15 of the Administrative Code, the director may grant a non-waste determination, and the hazardous secondary material will not be considered a hazardous waste, and therefore will not be subject to Ohio's hazardous waste rules.

Variances from classifying as a waste (OAC 3745-50-24): The director may grant requests for a variance from classifying as a waste if it is one of the below materials listed in rule 3745-50-24 of the Administrative Code and if it meets the applicable requirements outlined in the same rule.

- Materials accumulated speculatively without sufficient amounts being recycled, if the applicant demonstrates that sufficient amount of said material will be recycled or transferred for recycling the following year (OAC 3745-50-24(A)).

- Materials that are reclaimed and then reused as feedstock within the original production process in which the materials were generated if the reclamation operation is an essential part of the production process (OAC 3745-50-24(B)).

- Hazardous secondary materials that have been partially reclaimed but shall be reclaimed further before recovery is completed if the partial reclamation has produced a commodity like material (OAC 3745-50-24(C)).

Additionally, rule 3745-51-04 of the Administrative Code outlines exclusions that may apply to specific materials generated by regulated entities.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The director will evaluate the applicability of ORC section 119.14 to entities regulated by these rules when assessing fines and penalties for paperwork violations and first-time offenders.

20. What resources are available to assist small businesses with compliance of the regulation?

Ohio EPA offers the following resources:

- Ohio EPA's Office of Compliance Assistance and Pollution Prevention (OCAPP) is a nonregulatory program that provides information and resources to help small businesses comply with environmental regulations. OCAPP also helps customers identify and implement pollution prevention measures that can save money, increase business performance and benefit the environment. Services of the office include a toll-free hotline, on-site compliance and pollution prevention assessments, workshops/training, plain-English publications library and assistance in completing permit application forms. Additional information is available at https://epa.ohio.gov/divisions-and-offices/environmental-financial-assistance/compliance-assistance.

- Ohio EPA also has a permit assistance web page https://epa.ohio.gov/stay-compliant/get-help/permit-assistance that contains links to several items to help businesses navigate the permit process, including the Permit Wizard, Answer Place, Ohio EPA's Guide to Environmental Permitting and eBusiness Center.

- Ohio EPA maintains the Compliance Assistance Hotline 1-800-329-7518, weekdays from 8:00 a.m. to 5:00 p.m.

- U.S. EPA Small Business Gateway also has information on environmental regulations for small businesses available at http://www.epa.gov/smallbusiness/ and a Small Business Ombudsman Hotline 1-800-368-5883.

- Ohio EPA's Division of Environmental Response and Revitalization (DERR) Hazardous Waste Program offers free technical assistance to the regulated community at 614-644-2924.