



Division of Air Pollution Control

Response to Comments Interested Party Draft Rule Language Comment Period

Rule: OAC Chapter 3745-72 Low Reid Vapor Pressure Fuel Requirements

Agency Contact for this Package

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Ohio EPA provided a 30 day comment period which ended on March 6, 2015. This document summarizes the comments and questions received at the public hearing and/or during the associated comment period.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health.

In an effort to help you review this document, the questions are grouped by topic and organized in a consistent format. The name of the commenter follows the comment in parentheses.

General Comments

Comment 1

I suggest reinstating the Ohio E-Check program. The program was eliminated in seven Ohio counties once EPA air quality standards were found to be in compliance. To maintain better ambient air quality standards with low RVP's in Ohio and to further fund OEPA, I suggest reimplementing the E-Check emissions program. Such a plan would offset ODOT administrative complaints from air pollution concerns as well.

(Mr. Scott Bushbaum, Sierra Club, Dayton, Ohio)

Response 1

The RVP fuels program was initiated in the Cincinnati/Dayton metropolitan area in 2006 as a replacement for the Motor Vehicle Inspection and Maintenance Program (also known as E-check) and was successful in helping the area achieve attainment of the federal 1997 8-hour ozone standard. At this time, it is

not necessary to re-instate the e-check program and Ohio EPA has no plans to do this.

Specific Comments

OAC Chapter 3745-72-01 “Applicability”

Comment 2:

Should this be ‘determines “all” of the following:’?

(C) Temporary waivers during supply emergencies.

(1) The director may temporarily waive a control or prohibition respecting the use of a fuel or fuel additive required or regulated by the director pursuant to rules 3745-72-03 and 3745-72-04 of the Administrative Code if the director determines that any of the following:

(C)(3) I prefer the original wording here:

Nothing in this paragraph shall: (a) Limit or otherwise affect the application of any other waiver authority of the director pursuant to this section or pursuant to a regulation promulgated pursuant to this rule; or (b) Subject any person to an enforcement action, penalties, or liability solely arising from actions taken pursuant to the issuance of a waiver under this paragraph.

(Mr. Tim McCarthy, P.E., Safety Engineer, The Ohio State University)

Response 2:

Thank you for your comment. It is correct that the use of “any” is not appropriate in paragraph (C)(1) as the paragraph is meant to be all inclusive of the requirements. This paragraph will be revised to read “ ... if the director determines the following:”

Paragraph (C)(3) of this rule will be revised by deleting the word “paragraph” and replacing it with the word “rule.”

Please note that the changes to these paragraphs were made to align the rule with agency and Legislative Services Commission (LSC) rule formatting guidelines. The guidelines discourage the use of “any” and “all” in lists as they are implied in the upper part of the paragraph by the use of “the following” or “any of the following.”

OAC Chapter 3745-72-02 “Definitions”

Comment 3:

"Clean Air Act Amendments" means the Clean Air Act Amendments of 1990, 42 USC 7401 to 7671.

I suggest that your revision be:

“Clean Air Act” means the 1990 Clean Air Act, 42 USC 7401 to 7671.

Ref: The Plain English Guide to the Clean Air Act provides a brief introduction to the 1990 Clean Air Act. The 1990 Clean Air Act is the most recent version of a law first passed in 1970 to clean up air pollution. This summary covers some of the important provisions of the 1990 Clean Air Act and may help you understand what is in the law and how it may affect you. If you would like to learn more about the 1990 Clean Air Act, visit www.epa.gov/air/caa/.

Also, definitions (C)

‘version specified in this rule are referenced.’ should revised to: ‘version specified in this rule is referenced.’

(C)(2) delete the period in ‘(c) 42 USC. 7401’

(Mr. Tim McCarthy, P.E., Safety Engineer, The Ohio State University)

Response 3:

Thank you for your comment regarding the definition of the term “Clean Air Act.” For convenience, Ohio EPA is creating this definition so that it is not necessary to write the elongated title every time it is used in the rule. Ohio EPA will be changing the proposed language of the definition to match the agency standard definition as it occurs in paragraph (J) of OAC rule 3745-15-01. This will provide more consistency among Ohio’s air pollution control rules.

Ohio EPA also agrees with your suggested change for paragraph (C)(2)(c) of this rule which will be amended by deleting the period at the end of “USC.”

OAC Chapter 3745-72-04 “Transfer documentation and recordkeeping”

Comment 4:

In the comment, “Referenced materials.” needs a capital “R” to be consistent with the definitions section. This applies also to Special provisions for alcohol blends

and to Quality assurance and test methods. **(Mr. Tim McCarthy, P.E., Safety Engineer, The Ohio State University)**

Response 4:

The Ohio EPA agrees. The suggested change will be made.

OAC Chapter 3745-72-06 “Defenses”

Comment 5:

Delete the first 's in this paragraph:

(A)(1) For refiners and importers the following are true: (a) That the violation was not caused by the ~~refiner/importer~~ refiner or importer's, the refiner or importer's employee,...

Also, I think each paragraph [(1), (2), etc] needs a comma before “the following are true”. Example: For refiners and importers, the following are true:

(Mr. Tim McCarthy, P.E., Safety Engineer, The Ohio State University)

Response 5:

The Ohio EPA agrees with the first comment. The first occurrence of “s” in the word “importer’s” will be removed. The word will simply be “importer.”

Thank you for pointing out the lack of commas. A change will be made to add them for proper grammar.

OAC Chapter 3745-72-08 “Quality assurance and test methods”

Comment 6:

The agency name “Environmental Protection Agency” needs to be capitalized.
(Mr. Tim McCarthy, P.E., Safety Engineer, The Ohio State University)

Response 6:

In standard formatting procedures the agency name “Environmental Protection Agency” would normally be in caps. However, in order to comply with the Legislative Services Commission (LSC) formatting requirements (used when writing Agency rules) small caps are used.

End of Response to Comments