

3745-72-01 **Applicability.**

Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the last paragraph of rule 3745-72-02 of the Administrative Code titled "Incorporation by reference."

- (A) Beginning twelve months after final approval by USEPA under Section 211(c)(4)(C) of the Clean Air Act of Ohio's state implementation plan that requires the use of low Reid vapor pressure gasoline, this Chapter applies to all gasoline sold or dispensed for use in the Dayton area and Cincinnati area between June first and September fifteenth. If at the end of twelve months, three months of the low RVP control period have already elapsed, this chapter shall not apply until the low RVP control period of the next calendar year.
- (B) This chapter also applies to all gasoline sold or dispensed for use in the Cleveland area, the Dayton area and/or the Cincinnati area eight months after a violation of the ambient air quality standard for ozone, as determined by 40 CFR Part 50, appendix H is measured in the area and the control programs required under the reasonable further progress plan (created pursuant to section 182(b)(1) of the Clean Air Act) are implemented in the area. If, at the end of the eight-month period, three months of the low RVP control period have already elapsed, this chapter shall not apply until the low RVP control period of the next calendar year. If any extensions are granted under section 181(a)(5) of the Clean Air Act, this chapter will not apply until eight months after such extensions have expired.
- (C) This chapter also applies to all gasoline sold or dispensed for use in Stark, Jefferson, Columbiana and/or Preble counties eight months after a violation of the ambient air quality standard for ozone, as determined by 40 CFR Part 50, Appendix H is measured in the area and only if the request for redesignation for the area (created pursuant to section 107(d)(1)(E) of the Clean Air Act) has been approved by the U.S. environmental protection agency. If, at the end of the eight-month period, three months of the low RVP control period have already elapsed, this chapter shall not apply until the low RVP control period of the next calendar year.
- (D) For the purposes of this chapter, the Cleveland area includes Cuyahoga, Ashtabula, Lake, Lorain, Geauga, Summit, Medina and Portage counties; the Dayton area includes Montgomery, Miami, Greene and Clark counties; and the Cincinnati area includes Hamilton, Butler, Warren and Clermont counties.
- (E) 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:

- (a) Extreme and unusual fuel or fuel additive supply circumstances exist in the state or portion of the state that prevent the distribution of an adequate supply of the fuel or fuel additive to consumers;
 - (b) Such extreme and unusual fuel and fuel additive supply circumstances are the result of a natural disaster, an act of God, a pipeline or refinery equipment failure, or another event that could not reasonably have been foreseen or prevented; and
 - (c) It is in the public interest to grant the waiver (for example, when a waiver is necessary to meet projected temporary shortfalls in the supply of the fuel or fuel additive in a state or portion of the state that cannot otherwise be compensated for).
- (2) If the director makes the determinations required under paragraph (E)(1) of this rule such a temporary extreme and unusual fuel and fuel additive supply circumstances waiver shall be permitted only if:
- (a) The waiver applies to the smallest geographic area necessary to address the extreme and unusual fuel and fuel additive supply circumstances;
 - (b) The waiver is effective for a period of twenty calendar days or, if the director determines that a shorter waiver period is adequate, for the shortest practicable time period necessary to permit the correction of the extreme and unusual fuel and fuel additive supply circumstances and to mitigate impact on air quality;
 - (c) The waiver may be issued for a longer time period during the initial compliance period but only for the shortest practical time period necessary to permit the correction of the extreme and unusual fuel and fuel additive supply circumstances and to mitigate impact on air quality;
 - (d) The waiver permits a transitional period, the exact duration of which shall be determined by the director, after the termination of the temporary waiver to permit wholesalers and retailers to blend down their wholesale and retail inventory;
 - (e) The waiver applies to all persons in the motor fuel distribution system; and
 - (f) The director has given public notice to all parties in the motor fuel distribution system, and local and state regulators, in the state or region to be covered by the waiver.

(3) 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.

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Certification

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Date

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