

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(e)(4)(C) of the Clean Air Act of Ohio's state implementation plan that requires the use of low Reid vapor pressure gasoline~~May 31, 2008, this Chapter 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, V.P. control period have already elapsed, this chapter shall not apply until the low RVP, V.P. control period of the next calendar year.

~~(B) The requirements of this chapter shall no longer be effective for the Dayton area or Cincinnati area, or any part thereof, upon the effective date of approval by U.S. EPA of the removal, suspension or replacement of the requirements of this chapter in the Dayton area or Cincinnati area, or any part thereof, as a part of Ohio's state implementation plan.~~

~~(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)(C) 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)~~(D) 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~~ the following:
  - (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) ~~Granting the waiver~~ 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 the waiver meets the following:
  - (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~~rule shall do any of the following:

- (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~~rule.
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3745-72-02

**Definitions.**

[Comment: For dates and availability of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph (C) of this rule titled "~~Reference to~~Referenced materials."]

(A) Except as otherwise provided in paragraph (B) of this rule, the definitions in rule 3745-15-01 of the Administrative Code shall apply to this chapter.

(B) For the purpose of this chapter:

- (1) "Carrier" means any person who transports, stores, or causes the transportation or storage of gasoline at any point in the gasoline distribution network, without taking title to or otherwise having ownership of the gasoline and without altering the quality or quantity of the gasoline.
- (2) "Clean Air Act ~~Amendments~~" or "CAA" means the federal Clean Air Act Amendments of 1990; as amended November 15, 1990; 42 USC 7401 to 7671g.
- (3) "Conventional gasoline" means any gasoline that is not a low Reid vapor pressure gasoline.
- (4) "Distributor" means any person who transports or stores or causes the transportation or storage of gasoline at any point between any gasoline refinery or importer's facility and any retail outlet or wholesale purchaser-consumer's facility.
- (5) "Ethanol blender" means a person who owns, leases, operates, controls or supervises an ethanol blending facility.
- (6) "Gasoline" means any fuel sold for use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline, except such fuel used at any mobile source "research and development source," as defined in division (O) of section 3704.01 of the Revised Code.
- (7) "Gasoline distribution network" means any person involved with the distribution of gasoline starting with the refiner and ending with the retailer or wholesale purchaser-consumer.
- (8) "Importer" means ~~any person who imports gasoline or gasoline blending stocks or components from a foreign country into the United States or into the~~

~~Commonwealth of Puerto Rico, the Virgin islands, Guam, American Samoa, and the northern Mariana islands~~ first accepts delivery of gasoline in Ohio.

- (9) "Low Reid vapor pressure control area" or "low R.V.P. control area" means a geographic area in which only gasoline with a Reid vapor pressure of 7.8 P.S.I. or less may be sold or dispensed within its boundaries. The geographic areas are specified in rule 3745-72-01 of the Administrative Code.
- (10) "Low Reid vapor pressure control area terminal" or "low R.V.P. control area terminal" means a terminal which is capable of receiving gasoline in bulk from carriers which include but are not limited to, pipelines, marine vessels or barges, ~~and/or~~ or at which gasoline is altered either in quantity or quality. Gasoline which is intended for use in any low Reid vapor pressure control area is sold or dispensed into trucks at these low Reid vapor pressure control area terminals.
- (11) "Low Reid vapor pressure control period" or "low R.V.P. control period" means the time period beginning June first and ending September fifteenth of each calendar year.
- (12) "Low Reid vapor pressure gasoline" means any gasoline which has a Reid vapor pressure of 7.8 P.S.I. or less, except as provided in paragraph (A) of rule 3745-72-07 of the Administrative Code.
- ~~(13) "Motor Fuel System" shall be defined by the director through rulemaking.~~
- ~~(14)~~(13) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.
- (14) "Ohio state implementation plan" means the plan submitted by the state of Ohio to, and approved by, the United States environmental protection agency in response to Section 110 of the Clean Air Act.
- (15) "Person" means any individual, public or private corporation, political subdivision, government agency, department or bureau of the State, municipality, industry, co-partnership, association, firm, estate or any legal entity whatsoever.
- ~~(15)~~(16) "P.S.I." means pounds per square inch ~~absolute~~.
- ~~(16)~~(17) "Refiner" means any person who owns, leases, operates, controls or supervises a refinery which produces gasoline for use in a low Reid vapor pressure control area.

~~(17)~~(18) "Refinery" means a plant at which gasoline is produced.

~~(18)~~(19) "Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids, except liquified petroleum gases, as determined by ~~ASTM D323-99a~~ the standard test method for R.V.P. in 40 CFR 80.46.

~~(19)~~(20) "Reseller" means any person who purchases gasoline and resells or transfers it to a retailer or a wholesale purchaser-consumer when the resale and/or transfer does not include changing, blending or in any way altering the specifications of the gasoline with respect to Reid vapor pressure, ethanol content or any other parameter.

~~(20)~~(21) "Retail outlet" means any establishment at which gasoline is sold or offered for sale to the ultimate consumer for use in motor vehicles.

~~(21)~~(22) "Retailer" means any person who owns, leases, operates, controls or supervises a retail outlet.

~~(22)~~(23) "R.V.P." means Reid vapor pressure.

(24) "U.S. EPA" or "USEPA" mean the united states environmental protection agency.

~~(23)~~(25) "Wholesale purchaser-consumer" means any person who is an ultimate consumer of gasoline and who purchases or obtains gasoline from a distributor for use in motor vehicles.

(C) ~~Reference to~~Referenced materials. This chapter includes references to certain subject matter or materials. The text of the referenced materials is not included in the rules contained in this chapter. Information on the availability of the referenced materials as well as the date of ~~and/or~~and the particular edition or version of the material is included in this rule. For materials subject to change, only the specific ~~versions~~version specified in this rule are referenced. Material is ~~incorporated~~referenced as it exists on the effective date of this rule. Except for ~~referenced~~subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not ~~applicable~~referenced unless and until this rule has been amended to specify the new dates.

(1) Availability. The referenced materials are available as follows:

~~(a)~~ American Society for Testing Materials (ASTM). Information and copies of documents may be obtained by writing to: "ASTM International, 100 Bar Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19426-2959." These documents are also available for purchase at [www.astm.org](http://www.astm.org). ASTM documents are also available for inspection and copying at most public libraries and "The State Library of Ohio."

~~(b)~~(a) Clean Air Act as defined in this rule. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the act as amended in 1990 is also available in electronic format at [www.epa.gov/oar/caa/text.html](http://www.epa.gov/oar/caa/text.html). A copy of the act is also available for inspection and copying at most public libraries and "The State Library of Ohio."

~~(e)~~(b) Code of Federal Regulations (CFR). Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the CFR is also available in electronic format at [www.access.gpo.gov/nara/cfr/](http://www.access.gpo.gov/nara/cfr/). The CFR compilations are also available for inspection and copying at most public libraries and "The State Library of Ohio."

~~(d)~~(c) United States Code. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the United States Code is also available in electronic format at <http://www4.law.cornell.edu/uscode/> <http://www.gpo.gov/fdsys/browse/collectionUSCode.action?collectionCode=USCODE>. The U.S.C. USC compilations are also available for inspection and copying at most public libraries and "The State Library of Ohio."

(2) Referenced materials.

~~(a)~~ 40 CFR 80.8; "Sampling methods for gasoline and diesel fuel;" 67 FR 8736, Feb. 26, 2002.

~~(b)~~ 40 CFR 80.46; "Measurement of reformulated gasoline fuel parameters;" 59 FR 7813, Feb. 16, 1994, as amended at 59 FR 36961, July 20, 1994; 61 FR 58306, Nov. 13, 1996; 63 FR 63793, Nov. 17, 1998; 65 FR 6822, Feb. 10, 2000; 65 FR 53189, Sept. 1 2000; 66 FR 17263, Mar. 29, 2001; 67 FR 8737, Feb. 26, 2002; 67 FR 40181, June 12, 2002; 68

~~FR 56781, Oct. 2, 2003; 68 FR 57819, Oct. 7, 2003~~ as published in the July 1, 2015 Code of Federal Regulations.

- ~~(e) 40 CFR Part 50, Appendix H; "Interpretation of the 1-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone;" 44 FR 8220, Feb. 8, 1979, as amended at 62 FR 38895, July 18, 1997.~~
- ~~(d)(c) 42 USC. 7401 to 7671q; "The Public Health and Welfare-Air Pollution Prevention and Control;" as published ~~January 3, 2007~~ in the 2006 May 18, 2014 in Volume 30 of the 2012 edition of the United States Code.~~
- ~~(e) ASTM D323-99a; "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method);" approved April 10, 1999.~~
- ~~(f) Section 107(d)(1)(E) of the Clean Air Act; contained in 42 USC 7407(d)(3)(E); "Redesignation;" published ~~January 3, 2007~~ in the 2006 edition of the United States Code.~~
- ~~(g) Section 181(a)(5) of the Clean Air Act; contained in 42 USC 7511(a)(5); "Classification and attainment dates for 1989 nonattainment areas;" published ~~January 3, 2007~~ in the 2006 edition of the United States Code.~~
- ~~(h) Section 182(b)(1) of the Clean Air Act; contained in 42 USC 7511(b)(1); "New designations and reclassifications;" published ~~January 3, 2007~~ in the 2006 edition of the United States Code.~~
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- ~~(d) Section 110 of the Clean Air Act; contained in 42 USC 7410; "State implementation plans for national primary and secondary ambient air quality standards;" published ~~May 18, 2014~~ in Volume 30 of the 2012 edition of the United States Code.~~
- ~~(i)(e) Section 211(c)(4)(C) of the Clean Air Act; contained in 42 USC 7545(c)(2)(C); "New Fuels and Fuel Additives;" published ~~January 3, 2007~~ in the 2006 May 18, 2014 in Volume 30 of the 2012 edition of the United States Code.~~
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- ~~(i)(f) Section 211(f)(4) of the Clean Air Act; contained in 42 USC 7545(f)(4); "New Fuels and Fuel Additives;" published ~~January 3, 2007~~ in the 2006 May 18, 2014 in Volume 30 of the 2012 edition of the United States Code.~~

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3745-72-03

**Gasoline volatility standards and general provisions.**

- (A) During ~~the~~ the low R.V.P. control period, for use in a low R.V.P. control area, no refiner, importer, distributor, reseller, carrier, retailer or wholesale purchaser-consumer shall sell, offer for sale, dispense, supply, offer for supply, or transport ~~(for use in a low R.V.P. control area)~~, gasoline that has a R.V.P. exceeding 7.8 P.S.I.
- (B) Compliance with the 7.8 P.S.I. standard shall be determined by use of one of the sampling and testing methodologies specified in rule 3745-72-08 of the Administrative Code.
- (C) Liability for violations of the 7.8 P.S.I. standard shall be determined according to rule 3745-72-05 of the Administrative Code.

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3745-72-04

**Transfer documentation and recordkeeping.**

[Comment: For dates and availability 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 (C)~~ of rule 3745-72-02 of the Administrative Code titled "~~Incorporation by reference~~Referenced materials."."]

(A) Each time that the physical custody or title of low R.V.P. gasoline changes hands (excluding when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer facility), the transferor shall provide to the transferee, on or in addition to normal bills of lading, invoices, and the like, a document containing information regarding that shipment. This document shall accompany every shipment of gasoline after it has been dispensed or sold. The document shall contain, at a minimum, the following information:

(1) The date of transfer.

(2) The volume of the gasoline being transferred.

(3) If the gasoline is ethanol blended, the percentage by volume of ethanol in the gasoline.

(4) The location of the gasoline at the time of the transfer.

(5) A statement certifying that the gasoline has an R.V.P. of 7.8 P.S.I. or less, except as provided in rule 3745-72-07 of the Administrative Code.

(B) No person in the gasoline distribution network may sell, dispense or transfer low R.V.P. gasoline intended for use in a low R.V.P. control area without transfer documents that accurately contain the information listed in paragraph (A) of this rule.

(C) A terminal operator who sells or dispenses gasoline intended for use in a low R.V.P. control area during the low R.V.P. control period may not accept gasoline into the terminal or dispense gasoline unless all of the following ~~requirements~~ are met:

(1) Transfer documentation that accompanies the low R.V.P. gasoline contains the information listed in paragraph (A) of this rule.

(2) The terminal owner or operator conducts a quality assurance program including, but not limited to, periodic product sampling and testing in accordance with 40 CFR 80.8 and rule 3745-72-08 of the Administrative Code.

- (3) Low R.V.P. gasoline is segregated from conventional gasoline.
  - (4) Clearly marked documents accompany the conventional gasoline labeling it as "conventional gasoline, not for sale to the ultimate consumer in a low R.V.P. control area."
- (D) During the low R.V.P. control period, no refiner, importer, ethanol blender, carrier, distributor, reseller, or person may sell, offer for sale, dispense, supply or offer for supply gasoline for use in a low R.V.P. control area that is represented as low R.V.P. gasoline if the gasoline does not meet the definition of low R.V.P. gasoline and is not accompanied by the statement required in paragraph (A)(5) of this rule.
- (E) Low R.V.P. control area terminal operators shall maintain records on low R.V.P. gasoline containing all of the following information:
- (1) The volume of each shipment or truckload of gasoline leaving the terminal.
  - (2) If the fuel is blended with ethanol, the type and percentage by volume of ethanol used in each shipment or truckload of gasoline leaving the terminal.
  - (3) The volume, name and address of the owner of every shipment of gasoline leaving the terminal and a statement indicating that the gasoline has an R.V.P. of 7.8 P.S.I. or less.
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- (4) The destination of each tank truck sale or batch of gasoline.
  - (5) The date of the sale or transfer of every shipment of gasoline leaving the terminal.
  - (6) The results of any tests for R.V.P. of the gasoline sold or transferred and who performed the tests.
- (F) Each retailer and each wholesale purchaser-consumer within a low R.V.P. control area shall maintain all of the following records:
- (1) The name and address of the person from whom each shipment of gasoline was purchased, and the date on which each shipment was received.
  - (2) A statement indicating that the gasoline has an R.V.P. of 7.8 P.S.I. or less.

- (G) Each person in the gasoline distribution network shall maintain records containing compliance information as required in this rule. These records shall be retained by the regulated parties for at least two years from the date of creation or receipt of the records and shall be kept on site for a minimum of ninety days. For the remainder of the retention period, the records may be kept at a centralized location within the state of Ohio.
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3745-72-05

**Liability.**

- (A) Except as provided in rule 3745-72-07 of the Administrative Code, a violation of paragraph (A) of rule 3745-72-03 of the Administrative Code by a carrier, whose gasoline is in a transport vehicle, storage vessel, or elsewhere at the facility, shall be deemed a violation for all of the following parties:
- (1) The refiner at whose refinery the gasoline was produced or the importer at whose import facility the gasoline was imported, except as provided in paragraph (A)(1) of rule 3745-72-06 of the Administrative Code.
  - (2) The distributor, except as provided in paragraph (A)(2) of rule 3745-72-06 of the Administrative Code.
  - (3) The ethanol blender at whose ethanol blending plant the gasoline was blended, except as provided in paragraph (A)(3) of rule 3745-72-06 of the Administrative Code.
  - (4) ~~The carrier(s)~~ Any carrier who previously transported the gasoline to a facility in the gasoline distribution network, except as provided in paragraph (A)(4) of rule 3745-72-06 of the Administrative Code.
- (B) Except as provided in rule 3745-72-07 of the Administrative Code, a violation of paragraph (A) of rule 3745-72-03 of the Administrative Code by a distributor who is or is not operating under the corporate, trade, or brand name of a gasoline refiner or any of its marketing subsidiaries shall be deemed a violation for all of the following parties:
- (1) The refiner at whose refinery the gasoline was produced or the importer at whose import facility the gasoline was imported, except as provided in paragraph (A)(1) of rule 3745-72-06 of the Administrative Code.
  - (2) The distributor, except as provided, in paragraph (A)(2) of rule 3745-72-06 of the Administrative Code.
  - (3) ~~The carrier(s)~~ Any carrier who previously transported the gasoline to a facility in the gasoline distribution network, except as provided in paragraph (A)(4) of rule 3745-72-06 of the Administrative Code.
- (C) Except as provided in rule 3745-72-07 of the Administrative Code, a violation of paragraph (A) of rule 3745-72-03 of the Administrative Code by an ethanol blender who is or is not operating under the corporate, trade, or brand name of a gasoline refiner or any of its marketing subsidiaries shall be deemed a violation for all of the

following parties:

- (1) The refiner at whose refinery the gasoline was produced or the importer at whose import facility the gasoline was imported, except as provided in paragraph (A)(1) rule 3745-72-06 of the Administrative Code.
  - (2) The distributor, except as provided in paragraph (A)(2) rule 3745-72-06 of the Administrative Code.
  - (3) ~~The ethanol blender at whose ethanol blending plant the gasoline was blended,~~ except as provided in paragraph (A)(3) of rule 3745-72-06 of the Administrative Code.
  - (4) ~~The carrier(s)~~ Any carrier who previously transported the gasoline to a facility in the gasoline distribution network, except as provided in paragraph (A)(4) rule 3745-72-06 of the Administrative Code.
- (D) Except as provided in rule 3745-72-07 of the Administrative Code, a violation of paragraph (A) of rule 3745-72-03 of the Administrative Code by a retailer or wholesale purchaser-consumer who sells gasoline under the corporate, trade, or brand name of a gasoline refiner or any of its marketing subsidiaries shall be deemed a violation for all of the following parties:
- (1) ~~The refiner at whose refinery the gasoline was produced or the importer at whose import facility the gasoline was imported, except as provided in paragraph (A)(1) of rule 3745-72-06 of the Administrative Code.~~
  - (2) The distributor, except as provided in paragraph (A)(2) of rule 3745-72-06 of the Administrative Code.
  - (3) The ethanol blender at whose ethanol blending plant the gasoline was blended, except as provided in paragraph (A)(3) of rule 3745-72-06 of the Administrative Code.
  - (4) ~~The retailer or wholesale purchaser-consumer, except as provided in paragraph (A)(5) of rule 3745-72-06 of the Administrative Code.~~
  - (5) ~~The~~ Any carrier who previously transported the gasoline to a facility in the gasoline distribution network, except as provided in paragraph (A)(4) of rule 3745-72-06 of the Administrative Code.

- (E) Except as provided in rule 3745-72-07 of the Administrative Code, a violation of paragraph (A) of rule 3745-72-03 of the Administrative Code by a retailer or wholesale purchaser-consumer who is not operating under corporate, trade, or brand name of a gasoline refiner or any of its marketing subsidiaries shall be deemed a violation for the following associated parties:
- (1) The refiner at whose refinery the gasoline was produced or the importer at whose import facility the gasoline was imported, except as provided in paragraph (A)(1) of rule 3745-72-06 of the Administrative Code.
  - (2) The distributor, except as provided in paragraph (A)(2) of rule 3745-72-06 of the Administrative Code.
  - (3) The ethanol blender at whose ethanol blending plant the gasoline was blended, except as provided in paragraph (A)(3) rule 3745-72-06 of the Administrative Code.
  - (4) The retailer or wholesale purchaser-consumer, except as provided in paragraph (A)(5) of rule 3745-72-06 of the Administrative Code.
  - (5) ~~The carrier(s)~~ Any carrier who previously transported the gasoline to a facility in the gasoline distribution network, except as provided in paragraph (A)(4) of rule 3745-72-06 of the Administrative Code.
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3745-72-06

**Defenses.**

(A) In the event that a shipment of gasoline does not meet the requirements of paragraph (A) of rule 3745-72-03 of the Administrative Code, except as provided for in rule 3745-72-07 of the Administrative Code, a gasoline refiner, importer, distributor, reseller, ethanol blender or carrier shall not be deemed in violation if the following can be demonstrated ~~that~~:

(1) For refiners and importers, the following are true:

- (a) That the violation was not caused by the ~~refiner/importer~~ refiner or importer, the ~~refiner/importer's~~ refiner or importer's employee, or the ~~refiner/importer's~~ refiner or importer's agent; ~~and~~.
- (b) Test results, performed in accordance with the sampling and testing methodologies in rule 3745-72-08 of the Administrative Code, demonstrate that the gasoline was in compliance with the rules of this chapter when it was delivered to the next party in the distribution system.

(2) For distributors, the following are true:

- (a) That the violation was not caused by the distributor, the distributor's employee, or the distributor's agent; ~~and~~.
- (b) Bills of lading, invoices, delivery tickets, loading tickets, or other documents from the refiner at whose refinery the gasoline was produced, the importer at whose facility the gasoline was imported, or the carrier, reseller, or distributor from whom the gasoline was received, represent to the distributor that the gasoline was in compliance with the rules of this chapter when delivered to the distributor; ~~and~~.
- (c) The distributor provides evidence of an oversight program conducted by the distributor such as periodic sampling and testing of gasoline for monitoring the R.V.P. of gasoline that the distributor sells, supplies, offers for sale or supply, or transports to the next party in the distribution system.

(3) For ethanol blenders, the following are true:

- (a) That the violation was not caused by the ethanol blender, the ethanol blender's employee, or the ethanol blender's agent; ~~and~~.

- (b) Bills of lading, invoices, delivery tickets, loading tickets, or other documents from the refiner at whose refinery the gasoline was produced, the importer at whose facility the gasoline was imported, or the carrier, reseller, or distributor from whom the gasoline was received, represent to the ethanol blender that the gasoline to which ethanol was added was in compliance with the rules of this chapter when delivered to the ethanol blender;.
- (c) The ethanol blender provides evidence of an oversight program conducted by the ethanol blender such as periodic sampling and testing of gasoline for monitoring the R.V.P. of gasoline that the ethanol blender sells, supplies, offers for sale or supply, or transports; ~~and~~.
- (d) The ethanol blender provides evidence that the gasoline determined to be in violation contained no more than ten per cent ethanol, by volume, when ~~it was~~ delivered to the next party in the distribution system.

(4) For carriers, the following are true:

- (a) That the violation was not caused by the carrier, the carrier's employee, or the carrier's agent;.
- (b) Bills of lading, invoices, delivery tickets, loading tickets, or other documents from the refiner at whose refinery the gasoline was produced, the importer at whose facility the gasoline was imported, or the carrier, reseller, or distributor from whom the gasoline was received, represent to the carrier that the gasoline was in compliance with the rules of this chapter when delivered to the carrier; ~~and~~.
- (c) The carrier provides evidence of an oversight program conducted by the carrier such as periodic sampling and testing of incoming gasoline for monitoring the R.V.P. of gasoline stored or transported by that carrier to the next party in the distribution system.

(5) For retailers or wholesale purchaser-consumers, the following are true:

- (a) That the violation was not caused the ~~retailer/wholesale~~ retailer or wholesale purchaser-consumer, the ~~retailer/wholesale~~ retailer or wholesale purchaser-consumer's employee, or the ~~retailer/wholesale~~ retailer or wholesale purchaser-consumer's agent; ~~and~~.

- (b) Bills of lading, invoices, delivery tickets, loading tickets, or other documents from the refiner at whose refinery the gasoline was produced, the importer at whose facility the gasoline was imported, or the carrier, reseller, or distributor from whom the gasoline was received, represent to the retailer or wholesale purchaser-consumer that the gasoline was in compliance with the rules of this chapter when delivered to the retailer or wholesale purchaser-consumer.
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Effective:

Five Year Review (FYR) Dates: 08/26/2015

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 3704.03(E)  
Rule Amplifies: 3704.03(A), 3704.03(E)  
Prior Effective Dates: 11/8/94, 1/16/06, 4/24/06, 7/17/06

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3745-72-07

**Special provisions for alcohol blends.**

[Comment: For dates and availability 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 (C) of rule 3745-72-02 of the Administrative Code titled "~~Incorporation by reference~~ Referenced materials ."]-

- (A) Gasoline containing ethanol may exceed the R.V.P. limit specified in paragraph (A) of rule 3745-72-03 of the Administrative Code by no more than one P.S.I. if the gasoline meets all of the following requirements:
- (1) The gasoline must contain denatured, anhydrous ethanol.
  - (2) The concentration of the anhydrous ethanol, excluding the required denaturing agent, must be at least nine per cent and no more than ten per cent, by volume, of the gasoline.
  - (3) The ethanol content of the gasoline shall be determined by use of one of the testing methodologies specified in 40 CFR 80.8. The maximum ethanol content of gasoline shall not exceed any applicable waiver conditions under section 211(f)(4) of the Clean Air Act.
- (B) Each invoice, loading ticket, bill of lading, delivery ticket, and other document that accompanies a shipment of gasoline containing ethanol shall contain a statement that the gasoline being shipped contains ethanol and shall list the volume percentage of ethanol in that gasoline.

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3745-72-08

**Quality assurance and test methods.**

[Comment: For dates and availability 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 (C) of rule 3745-72-02 of the Administrative Code titled "~~Incorporation by reference~~referenced materials."]

Any sampling or testing of gasoline required by this chapter shall be accomplished as follows:

~~(A) Any sampling or testing of gasoline required by this chapter shall be accomplished as follows:~~

~~(1)~~(A) Sampling of gasoline for the purpose of determining compliance with paragraph (A) of rule 3745-72-03 of the Administrative Code, except as provided in rule 3745-72-07 of the Administrative Code, shall be conducted in accordance with 40 CFR 80.46.

~~(2)~~(B) Testing of gasoline for the purpose of determining compliance with paragraph (A) of rule 3745-72-03 of the Administrative Code, except as provided in rule 3745-72-07 of the Administrative Code, shall be conducted in accordance with 40 CFR 80.8. The R.V.P. value determined by such testing for the purpose of verifying compliance with this chapter shall not exceed 0.3 P.S.I. above the allowable value of 7.8 P.S.I. for the low R.V.P. gasoline or 8.8 P.S.I. for the gasoline which meets ~~the requirements of rule 3745-72-07 of the Administrative Code.~~

~~(3)~~(C) Alternative sampling or test methods may be used if approved in advance in writing by the Ohio environmental protection agency and the United States environmental protection agency.

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