

RULE SYNOPSIS

Draft rule language for Ohio Administrative Code (OAC) Chapter 3745-113,
“Architectural and Industrial Maintenance (AIM) Coatings”
Five-year review

The Ohio EPA Division of Air Pollution Control (DAPC) has completed draft rule language for the incorporation of minor revisions in Ohio Administrative Code (OAC) Chapter 3745-113, “Ohio’s Architectural and Industrial Maintenance (AIM) Coatings”, as required by Ohio Revised Code (ORC) Section 119.032 (Five-year review). DAPC has determined that all the rules in this chapter are still necessary and require amendments as follows.

Changes made as a result of draft review:

On April 23, 2013, Ohio EPA release a draft of these rules for a 30-day public draft review. Ohio EPA received no outside comments on the draft and made no changes to the original draft rules as a result of outside comments.

DAPC made one change to the rules based on an internal comment. It was noted during the draft review, that enough changes had been made to OAC rule 3745-113-02 that it fell into the Legislative Service Commission’s (LSC) policy of a 50% change/50% deletion and should be proposed as a “rescind-replace with new rule”, rather than an “amended rule”. This change does not affect any of the amendments made to the rule for the draft, only the presentation of those changes.

The original changes presented in the draft are enumerated below and are the changes which will be proposed to the Joint Committee on Agency Rule Review (JCARR).

Original draft changes presented for comment in April 23, 2013 draft:

DAPC is proposing to delete “automatic” annual reporting requirements under the Director’s enforcement discretion waiver letter dated February 19, 2008 to a letter dated December 6, 2007 to the American Coatings Association (ACA). The remaining draft amendments are minor in nature, primarily for clarification, formatting and typographical corrections.

Summary of revisions for Chapter 3745-113, 5-year review:

1. OAC rule 3745-113-01 (Definitions)

- a. Paragraphs (B), (B)(1), (B)(2), and Comment section of this rule have been updated by using the text “*Referenced Materials*” instead of “*Incorporated by Reference*.”

- b. The definition for “architectural coating” (i.e., paragraph (A)(7)) has been amended by replacing the word “*and*” with “*as well as*”.
- c. The definition of “bituminous roof coatings” in paragraph (A)(9) of this rule has been expanded from its current definition to include the following text: ... “*for the primary purpose of preventing water penetration.*”
- d. The definition of “bituminous roof primer” in paragraph (A)(10) of this rule has been expanded from its current definition to include the following text: ... “*and intended for the purpose of preparing a weathered or aged surface or improving the adhesion of subsequent surfacing components.*”
- e. The definition of “concrete curing compound” in paragraph (A)(17) of this rule has been amended by replacing the text : .. “*retard the evaporation of water*”, and expanded from its current definition to include the following text: ... “*perform one or more of the following functions: (a) Retard the evaporation of water. (b) Harden or dustproof the surface of freshly poured concrete.*” By making this change the definition is now consistent with the Ozone Transport Commission (OTC) model rule for “Architectural and Industrial Maintenance (AIM) Coatings.”
- f. In the definition “exempt compound” under paragraph (A)(22), referenced material is added “ASTM D3960-05.”
- g. In the definition “fire-resistive coating” under paragraph (A)(24), the definition is amended by adding the following text: ... “*The fire-resistive category includes sprayed fire resistive materials and intumescent fire resistive coatings that are used to bring structural material.*”
- h. The definition for “industrial maintenance coating” (i.e., paragraph (A)(33)) of this rule, the definition is amended by adding text: ... “*including floors.*”
- i. In the definition “low-solids coating” under paragraph (A)(35), the definition is amended by adding the following text: ... “*as recommended for application by the manufacturer.*”
- j. The definition for “multi-color coating” (i.e., paragraph (A)(40)) of this rule, the definition is amended by replacing text: ... “*is label and formulated to.*”
- k. The definition for “non-flat-high-gloss coating” (i.e., paragraph (A)(42)) has been amended by replacing the word “*above*” with “*greater*”.
- l. In the definition “recycle coating” under paragraph (A)(51), the definition is amended by replacing the following text: ... “*not less than fifty per cent of the total weight consists of secondary and post-consumer coating, with not less than ten per cent of the total weight consisting of post-consumer coating*” with

“it contains a minimum of fifty per cent by volume post-consumer coating, with a maximum of fifty per cent by volume secondary industrial materials or virgin materials.”

m. In “referenced materials” (i.e., paragraph (A)(2)), a new reference is added “ASTM D3960-05”.

2. OAC rule 3745-113-02 (Applicability)

The addition of following text under paragraph (3) of this rule.

“including kits containing containers of different colors, types or categories of coatings and two component products. This applicability exception does not include bundling of containers individually containing one liter or less, which are sold together as a unit comprising more than one liter in volume, or any type of marketing which implies that multiple containers one liter or less be combined into one container. This exemption does not include packaging from which the coating cannot be applied. This exemption does include multiple containers of one liter or less that are packaged and shipped together with no intent or requirement to ultimately sell as one unit.”

3. OAC rule 3745-113-03 (Standards)

Paragraph (A) of this rule is updated by adding the following text: ... *“do any of the following.”*

4. OAC rule 3745-113-04 (Container labeling requirements)

DAPC is recommending a new labeling requirement for “Faux finishing coatings” under the paragraph (A)(10) of this rule.

5. OAC rule 3745-113-05 (Reporting requirements)

DAPC is proposing to delete paragraphs (C) - (E) under the Director’s enforcement waiver letter dated February 19, 2008 of this rule. ACA requested this change to the Director, Ohio EPA in a letter dated December 6, 2007. As part of rule review process, David Darling, Director, ACA requested DAPC on behalf of ACA and the Ohio Paint Council to delete the “automatic” annual reporting rule found in Section 3745-113-05 in a letter dated March 14, 2012. Earlier these rules granted “automatic” annual reporting requirements for the affected coating in the Architectural and Industrial Maintenance (AIM) Coatings rules.

6. OAC rule 3745-113-06 (Compliance Provisions and Test Methods)

Updating the comment section by using the text “Referenced Materials” instead of “Incorporated by Reference.”