

TO BE RESCINDED

3745-72-01 **Applicability.**

- (A) Beginning May 31, 2008, 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 R.V.P. control period have already elapsed, this chapter shall not apply until the low R.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.
- (C) For the purposes of this chapter, the Dayton area includes Montgomery, Miami, Greene and Clark counties, and the Cincinnati area includes Hamilton, Butler, Warren and Clermont counties.
- (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 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.
- (c) Granting the waiver is in the public interest (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.
 - (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 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.
 - (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 rule.

Effective:

Five Year Review (FYR) Dates: 10/31/2017

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3704.03(E)
Rule Amplifies: 3704.03(A), 3704.03(E)
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