



Division of Air Pollution Control Response to Comments

Rule: Ohio Administrative Code (OAC) Chapters 3745-24 and 3745-78

Agency Contact for this Package

Division Contact: Elisa Thomas, PIDM, 614-644-3621, Elisa.thomas@epa.ohio.gov

Ohio EPA held a 30-day public comment period ending May 20, 2016 regarding draft amendments to the rules in OAC Chapters 3745-24 and 3745-78. This document summarizes the comments and questions received during the 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.

3745-24-03 (A) – (D)

Comment 1: First, the Utilities question why the regulations need to be revised in Ohio Adm. Code 3745-24-03(A) - (D) to address emission statements of past years. These revisions seem unnecessary as these dates have passed.
(Cheri A. Budzynski, Shumaker, Loop & Kendrick, LLP on behalf of the Ohio Utilities Group)

In response to Ohio EPA's request for comments on the agency's draft amendments to OAC Chapter 3745-24, I offer only one thought. In OAC 3745-24-03, the agency has proposed clarifying revisions to the deadlines for submission of emission statements in 1994 through the present. Rather than maintain paragraphs (A) through (D), which refer to filing deadlines as many as 22 years in the past, the agency should simply delete paragraphs (A) through (D) and revise paragraph (E) to refer to calendar years 2016 and thereafter. Maintaining regulatory language that has been obsolete for decades serves no useful purpose. Pruning the dead wood can only make the agency's rules clearer and easier to apply.

(Eric B. Gallon, Porter Wright Morris & Arthur LLP)

Response 1: Ohio EPA will change the language in OAC rule 3745-24-03 to reflect the submission deadline from the date the rule is finalized into the future.

3745-78-02, "Fee Emission Reports"

Comment 2: With regard to Ohio Adm. Code 3745-78-02, the Utilities recommend that Ohio EPA revise the regulations to clearly state the maximum tons of any affected pollutant that the Utilities must pay the emission fees. This will aid the regulated individuals by streamlining this information in one rule.
(Cheri A. Budzynski, Shumaker, Loop & Kendrick, LLP on behalf of the Ohio Utilities Group)

Response 2: Ohio EPA typically references other applicable rules and laws in lieu of reiterating content. That practice helps to keep the rules current if the content were to change and keeps Ohio EPA from needing to change content in more than one location.

General Comments of Emissions Estimates

Comment 3: Finally, the regulations do not limit the emission estimates that the Director can request from the Utilities. Currently, the Director may request emission estimates at his discretion. In the last report, the Utilities were asked to estimate a large number of emissions. The Utilities recommend that the regulations be revised to require only emissions estimates for those pollutants for which the Utilities pay a fee.
(Cheri A. Budzynski, Shumaker, Loop & Kendrick, LLP on behalf of the Ohio Utilities Group)

Response 3: There are three annual emissions reports for actual emissions that a company, such as a utility, may need to submit. The authority to require these reports falls under different OAC chapters as the information is used for different purposes: (1) emissions fee report under OAC rule 3745-78-02(A); (2) emissions statement under OAC Chapter 3745-24; and (3) emissions inventory under OAC rule 3745-15-03. The rules that are currently open for comment pertain to numbers one and two above.

Each of the reports have specific requirements including the actual emissions of specific pollutants. For efficiency, Ohio EPA combined these three reports into one set of forms since many of the data elements required, and some pollutants, overlap. The emissions fee report under OAC chapter 3745-78, if submitted on its own, would only require emissions information for the five pollutants Ohio EPA charges emissions fees for. The emissions statement under OAC chapter 3745-24 is only required for facilities that emit 25 or more tons per year of volatile organic compounds or nitrogen oxides. Volatile organic compounds is one pollutant that is not required under OAC chapter 3745-78 but is under OAC chapter 3745-24.

For the emissions inventory, Ohio EPA has the authority under OAC rule 3745-15-03 to request and receive information from regulated entities. Emissions information through emissions inventory reporting is provided to U.S. EPA to develop an annual criteria and toxic pollutant inventory. The number of pollutants included in the emissions inventory are much greater. Additional information on the emissions inventory program can be found on the following web page:
<http://epa.ohio.gov/dapc/aqmp/eiu/eis.aspx>

End of Response to Comments