



Division of Air Pollution Control Response to Comments

Rule: OAC Chapter 3745-21, "Carbon Monoxide, Photochemically Reactive Materials, Hydrocarbons, and Related Materials Standards" – 5 Year Review and Reasonably Available Control Technology (RACT) for the Cincinnati and Cleveland 2015 Ozone Moderate Nonattainment Areas

Agency Contact for this Package

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Ohio EPA held an interested party comment period on May 17, 2021 regarding draft amended rules in Ohio Administrative Code (OAC) Chapter 3745-21, "Carbon Monoxide, Photochemically Reactive Materials, Hydrocarbons, and Related Materials Standards". This document summarizes the comments and questions received during the comment period, which ended on June 18, 2021.

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.

General Comments

Comment 1: "Lastly, and more generally, many of the proposed rule changes impose compliance deadlines or other time limits upon industry. How will Ohio EPA consider requests to extend these deadlines as needed, as facilities work to evaluate the best means of compliance with the rules? What factors did Ohio EPA consider in evaluating the manner in which to expand these requirements for the Cincinnati and/or Cleveland nonattainment areas? OMA urges Ohio EPA to carefully consider whether industry will be able to comply with the future terms and conditions of environmental permits issued to industry that incorporate these proposed rule changes, and the cost to industry of doing so. Our organization respectfully request to be included in meetings or future discussions pertaining to amendments to these rules and looks forward to reviewing any additional proposed

changes to these rules.” **(Rob Brundrett, Ohio Manufacturer’s Association)**

Response 1: Reclassification of the Cincinnati and Cleveland areas to moderate nonattainment triggers additional Clean Air Act (CAA) requirements, including VOC RACT requirements. Ohio is required under the CAA to meet these requirements, including requiring compliance with RACT by specific deadlines.

Ohio EPA acknowledges that there may be rare circumstances that pose challenges for specific facilities, and in those instances, we typically work with the facilities on a case by case basis in collaboration with U.S. EPA Region 5. In the unusual circumstance a facility cannot comply with a requirement or meet an established deadline, Ohio EPA urges the facility to reach out early in the process so we can review the specific circumstances and work with the facility in collaboration with U.S. EPA to find alternatives, where alternatives are justified.

Ohio EPA began this rulemaking process as early as possible in order to provide advance notice of the upcoming requirements and opportunity for input. We have actively engaged with stakeholders (including OMA) throughout this process and plan to do more targeted outreach with newly subject facilities to ensure they have plenty of time to understand and comply with the requirements. Future meetings and discussions will be open to all stakeholders and OMA will be continued to be notified of opportunities to provide input.

OAC 3745-21-07 Control of Emissions of Organic Materials from Stationary Sources

Comment 2: “In these proposed rule changes, Ohio EPA has added “TRC Buyer Co. dba “The Ruscoe Company” Plant II”, Facility ID 1677010204, to the table in 21-07(M)(1). I believe that this is a mistake, and that Ruscoe (my client) should not be added here.” **(Eric Tabor, Tabor Air Compliance)**

“TRC Buyer Co. dba “The Ruscoe Company” Plant II was added to the Table un (M)(1) in OAC rule 3745-21-07. While writing the renewal permit, I determined that OAC rule 3745-21-07(M)(1) was not applicable to this facility based on the white papers and the Ashland case. The facility had request to rescind the request to have the facility added to OAC rule 3745-21-07(M)(1). Please remove this facility from the Table under (M)(1) of OAC rule 3745-21-07.” **(Laura Miracle, Akron Air Quality Management District)**

Response 2: Ohio EPA has removed "TRC Buyer Co. dba "The Ruscoe Company" from the rule at this time pending a review of the processes at the company. The review is intended to determine if the processes should be regulated under OAC 3745-21-07(M)(1). Should Ohio EPA determine that the facility should be regulated under this paragraph, the addition of the company to this paragraph will be addressed in a future rulemaking.

OAC 3745-21-11 Reasonably available control technology studies for non-CTG sources in ozone nonattainment areas

Comment 3: "Additionally, the draft rules include a new OAC 3745-21-11 RACT study for non-CTG sources in ozone nonattainment areas. The applicability for this rule seems unnecessarily limiting. It requires assessing the actual or potential emissions of VOCs "from sources which are not controlled by Ohio's CTG regulations in this chapter." The term "CTG" is defined to include most, but not all, VOC rules contained in OAC Chapter 3745-21. The term should be broadened to include any VOC rule contained in OAC Chapter 3745-21. In addition, the phrase "controlled by" could be interpreted as limiting the term to only those regulations that require actual controls. The phrase "subject to" is more encompassing. As such, OMA requests that Ohio EPA revise this term to state "from sources which are not subject to a rule in this chapter." **(Rob Brundrett, Ohio Manufacturer's Association)**

Response 3: Ohio EPA agrees that some other rules in 3745-21 beyond the CTGs should be considered in determining the applicability for a RACT study, such as sources controlled by categorical non-CTG RACT. However, Ohio does not believe it is appropriate to broaden the definition of CTG to include non-CTG rules as was recommended. Rather, we have revised OAC 3745-21-11(A)(2) as follows: "The facility emits or has the potential to emit as defined in rule 3745-21-01 of the Administrative Code, one hundred tons or more of VOC emissions as of the effective date of this rule from sources which are not controlled by Ohio's CTG regulations in this chapter or by categorical non-CTG RACT contained in rules 3745-21-12, 3745-21-14, 3745-21-16, 3745-21-21 and 3745-21-25 of the Administrative Code."

Additionally, Ohio does not believe it would be appropriate to change "controlled by" to "subject to" as a source could be subject to a provision (such as keeping certain records) which does not actually control or limit the emissions of that source. For clarity, we have added the following comment to the rule: [Comment: For the

purposes of this rule, "controlled by" is not limited to physical pollution controls but may include other types of controls such as VOC content limitations, operational limits or work practices.]

Comment 4:

Furthermore, the new RACT study rule at OAC 3745-21-11 also should include a provision that excludes certain sources from the scope of the detailed engineering study. Three such exclusions are apparent:

- a. First, the rule should exclude certain low-emitting VOC sources from the scope of the engineering study. The engineering study will become unwieldy if a facility is required to assess even the most trivial VOC sources. It is unlikely that meaningful reductions will be identified for such low-emitting VOC sources. OMA suggests that any source emitting 10 tons per year or less of VOCs should be excluded from the scope of the study.
- b. Second, the rule should exclude from the scope of the engineering study sources that are subject to NESHAP standards that are intended to control at least in part VOC emissions. By definition, Maximum Achievable Control Technology (MACT) is at least as stringent as RACT. Therefore, a source subject to MACT should not have to further assess the emissions to establish RACT. One such example is 40 CFR Part 61, Subpart L (National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants). Through the control of benzene, this regulation necessarily also controls other VOCs present in the emissions from the source. It is therefore unnecessary to assess such sources for RACT.

This is the case even if the NESHAP does not expressly include VOC limits, but nonetheless results in control of VOCs. Examples include 40 CFR Part 63, Subparts L (National Emission Standards for Coke Oven Batteries) and CCCCC (National Emission Standards for Coke Ovens: Pushing, Quenching and Battery Stacks). In these regulations, the limits are mostly particulate matter limits, but those particulate matter limits are used as surrogates for control of coke oven emissions. Coke oven emissions include many organic compounds, including VOCs such as benzene, toluene and xylene.

Consequently, OMA requests that Ohio EPA exclude from the scope of the detailed engineering study any sources subject to a NESHAP standard that regulates VOC emissions either directly or indirectly.

- c. Third and finally, the rule should exclude from the scope of the engineering study VOCs from gaseous fuel combustion. No RACT could apply to the emission of VOCs from the combustion of gaseous fuels; thus, resources would not be well spent on such studies. **(Rob Brundrett, Ohio Manufacturer's Association)**

Response 4: Ohio EPA does not believe the requested exclusions from the scope of a RACT study are appropriate, as described in further detail below:

- a. An exclusion for low-emitting sources (more accurately, low emitting processes or operations) is not consistent with U.S. EPA's non-CTG RACT guidance. RACT guidance requires states to include sources (i.e., processes or operations) that would have been covered by a CTG but fall below the applicability threshold when calculating potential emissions for non-CTG RACT applicability. These sources could very well fall into the definition of "low emitting" as suggested by the commenter. The non-CTG study may determine that no control is RACT for these sources, but they must be included in the calculation of potential emissions and control options must be evaluated.
- b. Ohio EPA cannot provide a blanket exemption for sources subject to NESHAP requirements. Many sources are subject to multiple limits established for multiple purposes. For example, coke ovens are generally subject both to SIP limits, for purposes of meeting requirements relating to attainment of air quality standards, and to MACT limits, for purposes of meeting requirements relating to control of hazardous air pollutants. The limits and test methods that are appropriate for one purpose are not necessarily appropriate for another purpose. The regulation of a source by other provisions that may provide some VOC control, directly or indirectly, in particular regulations established for a different purpose (for regulating hazardous air pollutants and not for regulating criteria pollutants) does not justify a blanket exemption from the mandatory SIP requirement.

However, the applicable NESHAP and other federally enforceable requirements can be considered as part of the RACT process in two ways.

First, federally enforceable limits can be considered as part of the calculation of the potential to emit. In accordance with OAC rule 3745-21-01(B)(15): "Potential to emit" means the maximum capacity of a facility or stationary source to emit an organic

compound or VOC under its physical and operational design. Any physical or operational limitation on the capacity of the facility or stationary source to emit an organic compound or VOC, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. This PTE determination should be discussed in detail with Ohio EPA to ensure the specific provision meets the criteria to be considered in the determination for PTE.

Second, it may be possible to demonstrate through the RACT study that the NESHAP constitutes RACT for a specific source. However, this would be a case-by-case determination that considers the specific emissions limitation, compliance method, and monitoring, recordkeeping and reporting requirements. It has been EPA's position that controls required by a NESHAP are not necessarily equivalent to RACT. RACT guidance allows states/sources to include controls from NESHAPs in the calculation of potential emissions. However, a blanket exemption from consideration of RACT requirements because a source is subject to a NESHAP is not something EPA would approve.

- c. An exclusion for VOCs from gaseous fuel combustion is not provided for in U.S. EPA's RACT guidance and we are not aware of any other states that have such an exclusion. We do not believe a blanket exclusion would be appropriate, but it may be possible to demonstrate through the RACT study that no control is RACT for these sources.

Ohio EPA also wishes to clarify that RACT applicability and analysis only applies to air contaminant sources, as defined in OAC 3745-15-05(A)(3), that are subject to Ohio EPA air regulations. Under OAC 3745-15-05(B), air contaminant sources that have a de minimis level of emissions are exempt from Ohio's air regulations, and therefore RACT. Ohio EPA will work with facilities required to perform a non-CTG RACT analysis on a one-on-one basis to ensure the appropriate sources at the facility are included in the full non-CTG RACT analysis.

OAC 3745-21-26 Surface coating of miscellaneous metal and plastic parts

Comment 5: "First, the Cleveland-Cliffs Steel Corporation mill in Butler County (formerly AK Steel Corporation) is subject to site-specific VOC content limits for rolling oil, rust preventative oil, anti-galling material

and prelube oil pursuant to OAC 3745-21-09(OO). The draft rules include an expansion of OAC 3745-21-26 (surface coating of miscellaneous metal and plastic parts) to now include Butler County. The OMA and Cleveland-Cliffs Steel do not believe that any of the oils or material subject to OAC 3745-21-09(OO) fall within the applicability of OAC 3745-21-26. Nonetheless, in order to avoid any ambiguity in applicability, OMA requests that OAC 3745-20-09(OO) be added to the list of exemptions in OAC 3745-21-26(A)(3), along with the list of other exempt 21-09 standards." **(Rob Brundrett, Ohio Manufacturer's Association)**

Response 5:

Ohio EPA cannot provide a blanket exemption for CTG requirements triggered by moderate nonattainment with the 2015 ozone standard based on existing site-specific RACT established under a previous standard. If Cleveland-Cliffs determines these sources fall within the applicability of OAC 3745-21-26, the facility will need to comply with both the existing site-specific RACT in OAC 3745-21-09(OO) as well as OAC 3745-21-26. If clarification on whether these sources are subject to a rule is needed, Cleveland Cliffs can request an applicability determination from Ohio EPA.

In addition, Cleveland Cliffs will need to submit an updated RACT study for the site-specific RACT in OAC 3745-21-09(OO) in accordance with OAC rule 3745-21-11(E) in order to affirm that the existing provisions continue to represent RACT for the 2015 ozone standard or to establish updated RACT provisions.

End of Response to Comments