

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**Public Notice  
Proposed Rulemaking Governing  
Adjudication & Administrative Procedures**

Notice is hereby given that the Director of Environmental Protection, under the authority of Sections 3704.03, 3714.02, 3734.02, 3734.12, 3734.70, 3734.71, 3734.72, 3734.73, 3734.74, 3745.01, 3746.04, 3751.02, 3752.03, 3753.02, 6109.04, 6111.03, 6111.041 of the Ohio Revised Code and in accordance with Chapter 119, proposes to original file the following rules of the Ohio Administrative Code:

**The following rules are proposed as new:**

***Adjudications***

| <b><u>Rule #</u></b> | <b><u>Title:</u></b>   |
|----------------------|--|
| 3745-47-01           | Adjudication – applicability and construction of rules.                |
| 3745-47-02           | Adjudication – definitions.  |
| 3745-47-03           | Request for an adjudication hearing and objections.                    |
| 3745-47-04           | Provision, mailing, and publishing of notice of adjudication hearings. |
| 3745-47-05           | Filing and service of documents.                                       |
| 3745-47-06           | Authority and duties of hearing examiners.                             |
| 3745-47-07           | Intervention.  |
| 3745-47-08           | Motions.   |
| 3745-47-09           | Continuances.  |
| 3745-47-10           | Conferences.   |
| 3745-47-11           | Discovery; availability of agency files.                               |
| 3745-47-12           | Adjudication hearing procedures.                                       |
| 3745-47-13           | Conclusion of adjudication proceedings.                                |
| 3745-47-14           | Witnesses and evidence.  |
| 3745-47-15           | Burden of proof – evidence.  |
| 3745-47-16           | Report and recommendation of hearing examiner.                         |
| 3745-47-17           | Record.  |
| 3745-47-18           | Final action.  |
| 3745-47-19           | Emergency orders.  |
| 3745-47-20           | Rules of ethics.   |

***Administrative Procedures***

| <b><u>Rule #</u></b> | <b><u>Title:</u></b>   |
|----------------------|--|
| 3745-49-01           | Administrative procedures – applicability and construction of rules.                                   |
| 3745-49-02           | Administrative procedures – definitions.   |
| 3745-49-03           | Trade secrets.   |
| 3745-49-04           | Public notice of rules.  |
| 3745-49-05           | Draft actions and proposed actions.  |
| 3745-49-06           | Issuance of final actions.   |
| 3745-49-07           | Public notice.   |
| 3745-49-08           | Contents of public notices.  |
| 3745-49-09           | Fact sheets.   |
| 3745-49-10           | Notice of water permit applications to government agencies.  |
| 3745-49-11           | Coordination of Federal Water Pollution Control Act permit program with agencies of the United States. |
| 3745-49-12           | Filing of verified complaints.   |

|            |                     |
|------------|---------------------|
| 3745-49-13 | Public meetings.    |
| 3745-49-14 | Director's journal. |

Since most of these rules have been changed more than 50% or moved into a different number, the rules need to be rescinded and adopted as new. Listed above are the rules proposed as new, and listed below are the rules to be rescinded:

| <b><u>Rule #</u></b> | <b><u>Title:</u></b>   |
|----------------------|--|
| 3745-47-01           | Applicability.   |
| 3745-47-02           | Construction of rules and regulations.   |
| 3745-47-03           | Definitions.   |
| 3745-47-04           | Hearing Clerk.   |
| 3745-47-05           | Draft or proposed action.  |
| 3745-47-06           | Fact sheets.   |
| 3745-47-07           | Notice.  |
| 3745-47-08           | Contents of public notices.  |
| 3745-47-09           | Notice of water permit applications to government agencies.  |
| 3745-47-10           | Coordination of Federal Water Pollution Control Act permit program with agencies of the United States. |
| 3745-47-11           | Filing of papers and service requirements.   |
| 3745-47-12           | Public meetings.   |
| 3745-47-13           | Requests for adjudication hearings and objections.   |
| 3745-47-14           | Authority and duties of hearing examiners.   |
| 3745-47-15           | Intervention.  |
| 3745-47-16           | Rights of a dismissed party and of a person denied permission to intervene.                            |
| 3745-47-17           | Motions.   |
| 3745-47-18           | Continuances.  |
| 3745-47-19           | Prehearing conferences - proceedings prior to adjudication hearing.                                    |
| 3745-47-20           | Discovery; availability of agency files.   |
| 3745-47-21           | Adjudication hearing procedures.   |
| 3745-47-22           | Director not to be a witness.  |
| 3745-47-23           | Burden of proof - evidence.  |
| 3745-47-24           | Report of hearing examiner or presiding officer.   |
| 3745-47-25           | Record.  |
| 3745-47-26           | Final action on hearing examiner's recommendation.   |
| 3745-47-27           | Agency journal.  |
| 3745-47-28           | Registers of current and past actions.   |
| 3745-47-29           | Emergency orders.  |
| 3745-47-30           | Rules of ethics.   |
| 3745-49-01           | Public notice of proposed and final rules.   |
| 3745-49-02           | Severability.  |
| 3745-49-03           | Public Availability of Information.  |
| 3745-49-04           | Civil and criminal penalties.  |

These rules address Adjudication & Administrative Procedures regulations.

The purpose of this rule making is to amend the chapters to do the following:

- The “procedural” rules, Chapter 3745-47, would become the “adjudication” rules, i.e., rules governing the adjudication process.

- The “miscellaneous” rules, Chapter 3745-49, would become the “administrative” rules, i.e., rules governing actions, public notices, public records, trade secrets, fact sheets, public meetings, etc.
- A new rule, 3745-49-12, governing verified complaints, would amplify ORC 3745.08.
- Rules 3745-49-50, 3745-49-51, and 3745-52 are not part of this rule-making. These rules are for the Clean Diesel Retrofit Grants, which are on a separate rule-making schedule.

The public comment period will run until January 5, 2012. A public hearing on this proposed rule making will be held to consider public comments in accordance with Section 119.03 of the Ohio Revised Code. This hearing will be held at Ohio EPA, 50 W. Town St., Suite 700, Columbus, OH 43215, Conference Center Room B, on January 5, 2012 at 10:30am.

To facilitate the scheduling of oral presentations, persons intending to give testimony at the hearing should notify the Ohio EPA Public Interest Center, P.O. Box 1049, Columbus, Ohio 43216-1049, (614) 644-2160. Prior registration will ensure that registrants are heard ahead of those individuals who register at the hearing. Oral testimony may be limited to five minutes, depending on the number of persons testifying. All interested persons are entitled to attend or be represented and to present oral and/or written comments concerning the proposed rule making.

Written testimony should be sent to the attention of Mandi Payton at the Ohio EPA – Director’s Office, P.O. Box 1049, Columbus Ohio 43216-1049. Written comments may also be submitted to the Hearing Officer at the public hearing. Written testimony will receive the same consideration as oral testimony. All testimony received at the hearing or by close of business on January 5, 2012 will be considered by Ohio EPA prior to final action on this rulemaking proposal. Written comments submitted after this date may be considered as time and circumstances permit.

Questions regarding this rule package should be directed to Mandi Payton at the Ohio EPA – Director’s Office, at (614) 644-2782 or by email at [amanda.payton@epa.ohio.gov](mailto:amanda.payton@epa.ohio.gov).

To receive a copy of the proposed rules, please contact the Director’s office receptionist at (614) 644-2782. In addition, full copies of all proposed rules are available for review at any Ohio EPA district office and at the Ohio EPA central office. The proposed rules are also accessible on Rules and Laws web page at [http://epa.ohio.gov/Rules\\_and\\_Laws.aspx](http://epa.ohio.gov/Rules_and_Laws.aspx).