

Rule Summary and Fiscal Analysis (Part A)**Ohio Environmental Protection Agency**

Agency Name

Division of Air Pollution Control (DAPC)

Division

Jennifer Nichols

Contact

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3745-15-04

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Measurement of emissions of air contaminants.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **3704.03(E)**

5. Statute(s) the rule, as filed, amplifies or implements: **3704.03(F)**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This is a 5-year review of Chapter 15. Amendments are necessary to update the authorizing and amplifying statutes.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule states the Director may require a source to test emissions of air contaminants and/or install monitoring equipment to demonstrate conformance

with regulations. Amendments are necessary to update the authorizing and amplifying statutes.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

Not Applicable.

12. 119.032 Rule Review Date: **11/30/2006**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0

Not applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Please see the attached fiscal analysis.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **Yes**

You must complete the Environmental rule Adoption/Amendment Form in order to comply with Am. Sub. 106 of the 121st General Assembly.

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Rule Number: 3745-15-04

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School
Districts

(b) Counties

(c) Townships

(d) Municipal
Corporations

Yes

Yes

Yes

Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

Please see attached fiscal analysis.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

Please see attached fiscal analysis.

(a) Personnel Costs

Please see attached fiscal analysis.

(b) New Equipment or Other Capital Costs

Please see attached fiscal analysis.

(c) Operating Costs

Please see attached fiscal analysis.

(d) Any Indirect Central Service Costs

Please see attached fiscal analysis.

(e) Other Costs

Please see attached fiscal analysis.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

The amendments proposed as part of this action will not impose any additional cost for compliance. The existing requirements of this rule continue to require a cost of compliance that has existed for a number of years and has been funded through existing budgets.

7. Please provide a statement on the proposed rule's impact on economic development.

The proposed amendments will have no additional impact on economic development. The existing requirements of this rule continue to impact economic development in that any agency/local government or other entity with air contaminant emissions in the state of Ohio will have to incur additional costs to address the air pollution control requirements of the state.

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Rule Number: 3745-15-04

Environmental Rule Adoption/Amendment Form

Pursuant to Am. Sub. H.B. 106 of the 121st General Assembly, prior to adopting a rule or an amendment to a rule dealing with environmental protection, or containing a component dealing with environmental protection, a state agency shall:

- (1) Consult with organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment.
 - (2) Consider documentation relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or rule amendment.
 - (3) Specifically identify whether the proposed rule or rule amendment is being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program, whether the proposed rule or rule amendment is more stringent than its federal counterpart, and, if the proposed rule or rule amendment is more stringent, the rationale for not incorporating its federal counterpart.
 - (4) Include with the proposed rule or rule amendment and rule summary and fiscal analysis required to be filed with the Joint Committee on Agency Rule Review information relevant to the previously listed requirements.
-

- (A) Were organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment consulted ? **Yes**

Please list each contact.

Please see the attached interested party e-mail and e-mail notification list.

- (B) Was documentation that is relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or amendment considered ? **Yes**

Please list the information provided and attach a copy of each piece of documentation to this form. (A SUMMARY OR INDEX MAY BE ATTACHED IN LIEU OF THE ACTUAL DOCUMENTATION.)

ORC 3704.03

Various chapters of the Administrative Code

The Clean Air Act

- (C) Is the proposed rule or rule amendment being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program ?

Yes

Is the proposed rule or rule amendment more stringent than its federal counterpart ? **No**

- (D) If this is a rule amendment that is being adopted under a state statute that establishes standards with which the amendment is to comply, is the proposed rule amendment more stringent than the rule that it is proposing to amend? **No**

Not Applicable

From: Paul Braun
To: Aaron Walker; Adam Cowan; Adam Sackenheim; aDAPCRules; Aki Watanabe; Al Moyer; Alan Schreiner; Alexandra Boon; Allen Ellett; Amie Greene; Amy Jones; Amy Wainright; Amy Wright; Andrea Comanitz; Andrew Eribo; Andrew Kolesar; Andrus, Ronald; Andy Ruppenkamp; Anthony Sloma; April Bott; Ashish Kumar; Ayer, Matt; Ayers, Jerry; Baker, Jennifer; Baldwin, Nancy; Barbara Ashby; Barnett, Robert; Bartling, Laura; Baubles, Clark; Beckstedt, Robb; Benjamin Franz; Bernard Mount; Bernie Huff; Bill Davis; Bill Habig; Bill Hayes; Bob Hodanbosi; Bob Lopez; Bob Niemi; Bores, Dennis; Bowen, Paul; Brad Johnston; Bradley, Mike; Brandenberry, Steven; Brewer, Richard; Brian Duffy; Brian Galley; Brian Mensinger; Brown, Dirk; Brown, Lisa; Bruce French; Bruce VanScoy; Bryant, Ricky; Bukach, Tammy; Calderazzo, Deborah; Campbell, Stacie; Caplan, William; Carol Hester; Carol Ray; Caroline Depp; Cathryn Allen; Cecilia; Charles E. Kramek; Charles Herman; Charles Storrow; Charlie Howard; Chris Korleski; Chris Suits; Christie Myers; Christine Pedersen; Christopher Carr; Christopher Jones; Christopher Vinson; Christopher, Jamie; Chuck Barksdale; Cindy Hafner; Clifford, Todd; Clyde Miller; Colburn, Stacey; Concerned Citizens of Neave Twp.; Connair, Kevin; Cornett, Bruce; Craig Miller; Curt Spence; D. Bingle; Dahl, Jay; Dale Loudermilk; Dan Aleman; Dan Harris; Dan Monette; Dan Steen; Dave Moore; Dave Oas; Daved Abel; David Gedeon; David J. Schmitt; David Paul; David Rockman; Dawn Miller; Dax Blake; Dean Ponchak; Dean Spradlin; Debbie Hannah; Debra Reining; Delarm, Robert; Dennis Bush; Deron Smith; DeWalt, Doug; Don Clark; Don Hart; Don Rice; Don Waltermeyer; Don Williams; Donald T. fulkers; Dory Montazemi; Doug Abbott; Doug McWilliams; Drew Bergman; Drexelius, Bob; Duane Johnson; Dustin J. Binkman; Dwain Kincaid; Ed Saccoccia; Edward Kitchen; Elise Spriggs; Emily Rynders; Eric Tabor, PE(...)
Date: 6/26/2006 3:34:22 PM
Subject: Ohio EPA DAPC Rulemaking - OAC Chapter 3745-15 Five Year Review

Notice is hereby given that in accordance with Ohio Revised Code ("ORC") 119.032 (5-year rule review), the Ohio Environmental Protection Agency, Division of Air Pollution Control ("DAPC") has reviewed the following rules contained in Ohio Administrative Code ("OAC") Chapter 3745-15:

- 3745-15-01 Definitions
- 3745-15-02 Purpose
- 3745-15-03 Submission of emission information
- 3745-15-04 Measurement of emissions of air contaminants
- 3745-15-05 "De Minimis" air contaminant source exemption
- 3745-15-06 Malfunction of equipment; scheduled maintenance; reporting
- 3745-15-07 Air pollution nuisances prohibited
- 3745-15-08 Circumvention
- 3745-15-09 Severability

Our preliminary review indicates that these rules continue to be necessary and are in need of revision as follows:

The amplifying and authorizing statutes are being updated for all the rules of this chapter.

OAC rule 3745-15-01: Inclusion of an incorporation by reference section as required by ORC 121.72. Minor changes to grammar/format. Inclusion of a

definition for Clean Air Act.

OAC rule 3745-15-03 : Inclusion of DAPC's quarterly reporting requirement for permits-to-install and permits-to-operate currently being issued by DAPC. This is, in part, to address SB 265 requirements for inclusion of reporting requirements in the OAC.

OAC rule 3745-15-05: Inclusion of updates for de minimis sources to meet the requirements reflected in OAC Chapter 3745-77 (September 2002 amendment) that require insignificant emissions units subject to one or more requirements to be included on the state and federally enforceable side of the Title V permit.

OAC rule 3745-15-06: Inclusion of updates to the requirements for malfunction reporting to increase consistency with other state programs and clarity in Ohio's program.

OAC rule 3745-15-07: Inclusion of updates to clarify that public nuisance conditions consisting of odors caused solely by the emissions of odorous substances not subject to the listed Administrative Code Chapters are not regulated by the Agency.

As part of the rule-making process, DAPC is required by Section 121.39 of the Ohio Revised Code to consult with organizations that represent political subdivisions, environmental interests, business interests, and others affected by the rules. The DAPC is offering your organization the opportunity to comment on these rules before the division formally proposes them.

Attached, please find the draft language for OAC rules 3745-15-01 to 3745-15-09 along with a synopsis of the recommended changes. These rules are also available at <http://www.epa.state.oh.us/dapc/regs/regs.html>. We request that you provide us with any comments you may have to the changes that have been recommended by Friday July 28, 2006.

Please e-mail or mail your comments or suggestions to the following addresses:

E-mail: mike.ahern@epa.state.oh.us
Subject Line: "Comments on OAC Chapter 3745-15"

Mailing address: Mike Ahern
Re: Comments on OAC Chapter 3745-15
Ohio Environmental Protection Agency, DAPC
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

Phone: (614) 644-3631

Thank you,

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency

LIST

Mail Envelope Properties (44A036AF.2DC : 194 : 56837)

Subject: Ohio EPA DAPC Rulemaking - OAC Chapter 3745-15 Five Year Review
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Files	Size	Date & Time
MESSAGE	4658	6/26/2006 3:34:07 PM
TEXT.htm	4317	
3745-15-09 IP.pdf	2943	5/30/2006 11:46:18 AM
3745-15-01 IP.pdf	23529	5/30/2006 11:53:14 AM
3745-15-02 IP.pdf	3076	5/30/2006 10:46:44 AM
3745-15-03 IP.pdf	11254	5/30/2006 9:28:04 AM
3745-15-04 IP.pdf	4099	5/30/2006 10:48:22 AM
3745-15-05 IP.pdf	12396	5/30/2006 11:19:12 AM
3745-15-06 IP.pdf	38272	5/30/2006 11:43:30 AM
3745-15-07 IP.pdf	4070	5/30/2006 11:45:04 AM
3745-15-08 IP.pdf	2876	5/30/2006 11:45:50 AM
3745-15 Synopsis IP.pdf	21156	6/26/2006 11:27:40 AM

Options

Expiration Date:	None
Priority:	Standard
ReplyRequested:	No
Return Notification:	None

Concealed Subject:	No
Security:	Standard

Junk Mail Handling Evaluation Results

Message is not eligible for Junk Mail handling

Message is from an internal sender

Junk Mail settings when this message was delivered

Junk Mail handling disabled by User

Junk List is not enabled

Junk Mail using personal address books is not enabled

Block List is not enabled

Fiscal Analysis
Chapter 3745-15 of the Administrative Code
“General Provisions on Air Pollution Control”

Background

The general provisions on air pollution control rules identify the basis for all Ohio EPA division of air pollution control rules and also identify general requirements applicable to all sources in the state of Ohio.

Compliance with many of the rules of this chapter can incur personnel costs, equipment/capital costs, operating costs, and other indirect costs. However, it is important to note that there is a significant cost savings to the state as a result of regulated entities' complying with air pollution control regulations by reducing emissions of pollutants compared to those emissions that would be realized without regulation. Reducing emissions benefits the state by providing a cost savings and economic benefit to stakeholders through reduced pollution. Not only does reducing pollution provide for better enjoyment of the state's resources through cleaner air but also reduces damage to property caused by pollution; reduces illnesses and reduces health care costs. These cost savings, although difficult to quantify, are significant and may exceed the costs incurred by regulated entities.

The following are the specific rules in this chapter with a discussion of the cost of compliance with each rule to all affected entities; including school districts, counties, townships, and municipal corporations. This chapter affects a wide variety of regulated entities; which could include, for example, an elementary school with a boiler, a municipal powerstation, or a corporate auto manufacturer. Please note that we do not anticipate that the amendments suggested to the rules of this chapter will have a significant affect on the cost of compliance with this chapter. The following discussion is relevant to the existing rules and proposed rules.

3745-15-01 Definitions

There is no cost of compliance. This rule contains definitions applicable to the chapter.

3745-15-02 Purpose

There is no cost of compliance. This rule states the purpose of all the Ohio EPA Division of air pollution control regulations: to protect health and prevent injury to plant, animal life, and property.

3745-15-03 Submission of emission information

This rule is not currently being amended.

3745-15-04 Measurement of emissions of air contaminants

This rule states the Director may require a source to test emissions of air contaminants and/or install monitoring equipment to demonstrate conformance with regulations. This can incur a cost to regulated entities. Typically, these costs can include the time for personnel to perform testing and monitoring of sources. Some facilities may choose to have a consultant perform these functions. As a result of this rule, the director may also require monitoring equipment be installed which can incur a capital cost. The costs can vary widely depending on the size of the facility, different types of pollutants, how many sources, etc., are required to test and/or monitor emissions information. An estimate could be anywhere from hundreds of dollars a year to thousands of dollars a year depending on the facility, the requirements, and whether or not capital costs are necessary. This amendment will not create any additional cost of compliance compared to what currently is done under the rule and permitting process in Ohio.

3745-15-05 "De Minimis" air contaminant source exemption

This rule contains qualifying criteria and requirements for smaller sources ("de minimis") to be exempt from air pollution control regulations in the State of Ohio. There is no cost of compliance.

3745-15-06 Malfunction of equipment; scheduled maintenance, reporting

This rule contains the requirements for approval of operation during scheduled maintenance of control equipment and for reporting of malfunctions.

Paragraph (A) contains the requirements for approval of operation during scheduled maintenance of control equipment. When a facility finds necessity to continue operation of a source while performing maintenance on the control equipment, the owner or operator is required to submit a written report to the director for approval prior to performing the maintenance. Our current rules contain six items that must be addressed as part of this report. Our draft changes include clarification as to what should be submitted as part of those six items and/or what the director will be taking into consideration as part of the approval process. Submitting this report can incur a cost to regulated entities. Typically this cost is the time for personnel to gather the information, compile it and submit the report. Some facilities may choose to have a consultant perform these functions. The costs can vary widely depending on the size of the facility, different types of pollutants, how many sources will be involved in the scheduled maintenance, etc. An estimate could be anywhere from a few hundred dollars per report to several thousands of dollars depending on the facility and the extent of the scheduled maintenance.

Paragraph (B) contains the requirements for reporting malfunctions. Reporting malfunctions of air pollution control equipment can incur a cost to regulated entities. Typically this cost is

the time for personnel to gather the information, compile it and submit the report. Some facilities may choose to have a consultant perform these functions. The costs can vary widely depending on the size of the facility, different types of pollutants, how many sources will be involved in the malfunction, duration of the malfunction, etc. For example, a short malfunction of one piece of control equipment may necessitate a quick phone call, or, several pieces of control equipment could malfunction off and on for several days requiring phone calls, follow up reports and action plans be submitted to Ohio EPA. An estimate could be anywhere from pennies per incident to a few thousand of dollars depending on the facility and the extent of the malfunctions.

We do not believe this amendment will create a significant change in the cost of compliance compared to what currently is required under the rule. The current rule requires any malfunction be reported immediately. The rule does not identify what constitutes “immediately” or how short of a malfunction duration must be reported. The proposal changes this to a list of certain malfunctions that extend beyond 1, 2 or 3 hours. This provides clarity to sources who often wondered how small a malfunction required reporting (e.g., a 1 minute malfunction from a lighting strike). Many sources often reported even the shortest of malfunction durations by telephone within moments of the occurrence. With the proposed rule language, these very short duration reports will be eliminated. This proposal also clarifies that immediately is within 24 hours and can be by telephone, fax or email.

The current language requires a facility with malfunctions that extend past 72 hours to submit a written report and a report on preventative measures that will be used in the future. Our proposed rule changes this requirement to require a written report which details the information that was provided in the immediate (telephone/fax/email) notification if the malfunction extends past 24 hours and a written report identifying future preventative measures for malfunctions extending past 48 hours.

A review of other state’s reporting requirements showed Ohio did not have the specificity of comparable states. For example, Texas regulations require notification within 24 hours via their electronic notification system which creates a written copy. They also can require any facility submit follow-up written reports for any malfunction reported in their system. Indiana requires notification of any malfunction lasting more than 1 hour. This notification must be via telephone within 4 hours of the event. Missouri also requires notification of any malfunction lasting more than 1 hour. However, they require all malfunctions to be reported in written form within 2 business days and this report must include future preventive measures. And lastly, Michigan requires notification of malfunctions that extend either 1 or 2 hours depending on the type of excess emissions. Michigan requires notification via any means within 2 business days, a follow-up written report for all reportable malfunctions along with future preventative measures. After a review of other state requirements such as those above, Ohio has attempted to update our rule to one that provides the clarity regulated facilities need, provides our agency with the information in a timely manner to be protective of human health and the environment, and to be comparable to other states without being overly restrictive.

3745-15-07 Air pollution nuisances prohibited

There is no cost of compliance with this rule. This rule states it is unlawful for a person/source to create emissions that are a "nuisance" to others.

3745-15-08 Circumvention

There is no cost of compliance with this rule. This rule states that no person can install a device that conceals or dilutes air contaminant emissions in violation of rules.

3745-15-09 Severability

This rule discusses the effect of invalidity of rules on other rules. There is no cost of compliance with this rule.