

Hearing Summary

Rule Package: Ohio Administrative Code (OAC) rule 3745-27-13, OAC Chapter 3745-513
"Rule 13"

Original filing date: September 18, 2019

Public comment start date: September 18, 2019

Public comment end date: October 24, 2019

Public hearing date: October 24, 2019

List of Rules: 3745-27-13, 3745-513-01, 3745-513-02, 3745-513-05, 3745-513-20,
3745-513-300, 3745-513-350, 3745-513-370, 3745-513-400,
3745-513-450, and 3745-513-470

Were there any participants in this public hearing beyond Ohio EPA staff or JCARR staff?

☐ Yes

☒ No

Were there comments received during the public comment period outside of those presented at this hearing?

☒ Yes

☐ No

This hearing summary has been compiled to meet the requirements of Section 119.03 of the Revised Code.

This hearing summary includes this cover sheet and the following attachments:

1. **Attachment A** - A copy of the public notice for this hearing.
2. **Attachment B** - A copy of the script read into the record to begin and end the hearing.
3. **Attachment C** - A copy of the response to comments.

Ohio EPA's response to comments document includes the comments received, who commented, the agency response to comments, and a statement of whether or not the rule was changed due to the comments.

Ohio EPA digitally records all public hearings for rules. The digital recordings are available upon request in a WAVE (.wav) file format. These recordings may be sent out for transcription if necessary.

Attachment A: Public Notice

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

Public Notice

Proposed Rulemaking Governing

Authorizations to engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility or a solid waste facility was operated

Notice is hereby given that the Director of Environmental Protection, under the authority of Sections 106.03 and 3734.02 of the Ohio Revised Code and in accordance with Chapter 119, proposes to rescind the following rule of the Ohio Administrative Code:

3745-27-13 Procedure to engage in filling, grading, excavating, building, drilling or mining on land where a hazardous waste facility or solid waste facility was operated.

Notice is hereby given that the Director of Environmental Protection, under the authority of Sections 106.03 and 3734.02 of the Ohio Revised Code and in accordance with Chapter 119, proposes to promulgate the following rules of the Ohio Administrative Code:

3745-513-01 Procedure to engage in filling, grading, excavating, building, drilling or mining on land where a hazardous waste facility or solid waste facility was operated – applicability.

3745-513-02 Definitions.

3745-513-05 Exclusions.

3745-513-20 Issuance, denial, termination, and revocation of an authorization to engage in chapter 513 activities.

3745-513-300 Application procedures for modern and historic facilities.

3745-513-350 Implementation requirements for modern and historic facilities.

3745-513-370 Certification report for modern and historic facilities.

3745-513-400 Application procedures for sampling, testing, or delineating the limits of waste placement.

3745-513-450 Implementation requirements for sampling, testing, or delineating the limits of waste placement.

3745-513-470 Certification report for sampling, testing, or delineating the limits of waste placement.

These rules address authorizations to engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility or a solid waste facility was operated.

The purpose of this rule making is to reorganize the contents of the existing rule into smaller rules for clarity and better usability. OAC 3745-27-13 was first promulgated in 1988 and governs any person proposing to engage in

filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility or a solid waste facility was operated. DMWM calls these authorizations "Rule 13 authorizations." OAC rule 3745-27-13 has not been significantly updated since 2003 and was filed with the Joint Committee on Agency Rule Review (JCARR) as a "no change" filing in 2008 and 2014.

The public comment period will run until October 24, 2019. A public hearing on this proposed rulemaking will be held to consider public comments in accordance with Section 119.03 of the Ohio Revised Code. This hearing will be held on October 24, 2019 at 10:30 a.m. at Ohio EPA, Lazarus Government Center, 50 W. Town Street, Suite 700, Columbus, Ohio.

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 rulemaking.

Written testimony should be sent to the attention of [Michelle Mountjoy](#) at the Division of Materials and Waste Management, 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 October 24, 2019 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 [Michelle Mountjoy](#), at the Division of Materials and Waste Management, at (614) 728-5372.

To receive a copy of the proposed rules, please contact the DMWM receptionist at (614) 644-2621. 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 the DMWM web page at <https://epa.ohio.gov/dmwm/dmwmnonhazrules>.

Attachment B: Hearing Script

DMWM 3745-513 Rules Hearing

10/24/19

My name is Mary McCarron. I will be presiding over today's public hearing.

The purpose of the hearing today is to obtain comments from any interested person regarding Ohio EPA's proposed rules.

Ohio EPA Division of Materials and Waste Management is proposing to rescind Ohio Administrative Code chapter 3745-27-13 and promulgate several rules in the Ohio Administrative Code Chapter 3745-513. These rules address authorizations to engage in filling, grading, excavating, building, drilling or mining on land where a hazardous waste facility or a solid waste facility was operated.

These rules have been filed with the Joint Committee on Agency Rule Review. Copies of the rules are available for public review at Ohio EPA's Columbus Office and on our website.

All interested persons are entitled to attend or be represented, and to present oral and/or written comments concerning the proposed rules. All written and oral comments received as part of the official record will be considered by the director of Ohio EPA.

To be included in the official record, written comments must be received by Ohio EPA by the close of business, today, October 24, 2019.

There is no one present to provide testimony so we will go off the record until 11 a.m.

The time is now 11 a.m. and this hearing is adjourned.

Attachment C: Response to Comments



Division of Materials and Waste Management Response to Comments

Rules: Ohio Administrative Code (OAC) rule 3745-27-13, OAC Chapter 3745-513 "Rule 13"

Agency Contact for this Package

Michelle Mountjoy, Division of Materials and Waste Management (DMWM), (614) 728-5372,
michelle.mountjoy@epa.ohio.gov

Ohio EPA held a public hearing on October 24, 2019 regarding the rules that govern authorizations to engage in filling, grading, excavating, building, drilling or mining on land where a hazardous waste facility or solid waste facility was operated. This document summarizes the comments and questions received at the public hearing and during the associated comment period, which ended on October 24, 2019.

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.

Comment 1: The Ohio Utilities and Generation (OUG) seeks clarification regarding the applicability of Ohio Administrative Code 3745-513 to members of OUG. Specifically, OUG seeks clarification that these rules will not hinder OUG members' ability to use material from existing landfills for beneficial use or for other maintenance/repair activities. (Cheri Budzynski, Shumaker, Loop, and Kendrick, LLP)

Response 1: Ohio Administrative Code (OAC) rule 3745-513-01 states that OAC Chapter 3745-513 is applicable only to a person proposing to engage in "chapter 513 activities." OAC rule 3745-513-02 defines chapter 513 activities as, "engaging in filling, grading, excavating, building, drilling, or mining on land where a solid waste facility or hazardous waste facility was operated. This means that OAC Chapter 3745-513 is only applicable to OUG members that intend to engage in filling, grading, excavating, building, drilling, or mining on closed solid or hazardous waste facilities. Exclusion from compliance with OAC Chapter 3745-513 does not relieve a person from compliance with any other applicable provision of the Ohio Revised Code and the rules adopted thereunder.

End of Response to Comments