

Hearing Summary

Rule Package: OAC Ch. 3745-31, NSR Permitting, 5-year Review

Original filing date: November 30, 2022

Public comment start date: November 30, 2022

Public comment end date: January 5, 2023

Public hearing date: January 5, 2023, 10:30 AM Virtual and Ohio EPA Offices in Columbus, Oh

List of Rules: OAC RULES 3745-31-(01-03, 05-07, 09-30, 32)

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 sign-in sheet for this hearing.
3. **Attachment C** - A copy of the script read into the record to begin and end the hearing.
4. **Attachment D** - 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.

Public Hearing Notice
Proposed Rulemaking Governing
Five-Year Rule Review of Rules in Ohio Administrative Code (OAC) Chapter 3745-31, "Permits-to-Install New Sources and Permit-to-Install and Operate Program"

Notice is hereby given that the Director of Environmental Protection, under the authority of Sections 3704.03(E) of the Ohio Revised Code (ORC) and in accordance with ORC Chapter 119, proposes to propose amended, new and rescinded rules in Ohio Administrative Code (OAC) Chapter 3745-31, "Permits-to-Install New Sources and Permit-to-Install and Operate Program" to the Joint Committee on Agency Rule Review (JCARR).

These rules relate to procedures for permitting sources of air pollution. Our preliminary review indicates that the rules continue to be necessary, and some require changes. Minor changes are being proposed to OAC rules 3745-31-01, 3745-31-02, 3745-31-05 to 3745-31-07, 3745-31-09 to 3745-31-29, and 3745-31-32. Ohio EPA is also changing OAC rule 3745-31-03, moving portions of the rule related to permit-by-rule into new OAC rule 3745-31-30.

The public comment period will run until Thursday, January 5, 2023. A public hearing on this proposed rulemaking will be held **on January 5, 2023 at 10:30 AM** to consider public comments in accordance with Section 119.03 of the Ohio Revised Code. Ohio EPA will be holding simultaneously an in-person and virtual public hearing. The in-person hearing will be held at Ohio EPA, Suite 700, 50 W. Town Street, Columbus, Ohio 43215. During the hearing, the public may submit written comments on the record about the proposed rules if participating virtually and verbally if participating in person. Written comments may also be submitted electronically any time before the close of business on January 5, 2023 to DAPC-Comments@epa.ohio.gov.

Citizens who want to participate virtually must register in advance for the meeting at: <https://attendee.gotowebinar.com/register/576246774905945358>.

Pursuant to Part D of Title I of the Clean Air Act, Ohio EPA is required to establish a state implementation plan (SIP) for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). The above-mentioned rules are a part of Ohio's SIP and the proposed amendments will be submitted to USEPA as a modification of the SIP. The above-mentioned hearing shall be considered the public hearing for the SIP submittal.

To facilitate the scheduling of oral presentations, persons intending to give testimony in-person at the hearing should notify Cathryn Allen at the Ohio EPA Public Interest Center, cathryn.allen@epa.ohio.gov or (614) 644-2160.

All interested persons are entitled to attend or be represented at the hearing and give written or oral comments on these rule changes and SIP revisions. All oral comments presented at the hearing, and all written statements submitted at the hearing or by the close of business on January 5, 2023 will be considered by Ohio EPA prior to final action on this rule and SIP revisions.

Written statements submitted after January 5, 2023 may be considered as time and circumstances permit but will not be part of the official record of the hearing.

These rules and associated documents are available on DAPC's Web page for electronic downloading at <https://epa.ohio.gov/divisions-and-offices/air-pollution-control/regulations/proposed-rules>. Questions regarding accessing the web site and any other questions or comments about these rules should be directed to Paul Braun at Ohio EPA, (614) 644-3734, DAPC-Comments@epa.ohio.gov, or mailed to Paul Braun, Ohio EPA, Division Air Pollution Control, Lazarus Government Center, P.O. Box 1049, Columbus, Ohio 43216-1049. Persons submitting comments electronically may follow-up with a hard copy via regular mail.

To request a reasonable accommodation due to a disability, visit <https://epa.ohio.gov/ada>

Registration Report

Generated

01/06/2023 05:04 PM EST

General Information

Webinar Name

Proposed Rulemaking: Procedures for Permitting Sources of Air

Scheduled Start Date

01/05/2023

Scheduled Start Time

10:30:00 AM EST

Scheduled Duration (minutes)

30

Registrants

First Name

Honor

Michael

Yvette

Stephen

Hope

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GoTo Webinar

Webinar ID

874-668-611

Registered

8

Opened Invitation

0

Clicked Registration Link

20

Registration Date

01/05/2023 09:03 AM EST

01/05/2023 08:59 AM EST

01/05/2023 08:45 AM EST

01/04/2023 06:17 PM EST

12/13/2022 09:25 AM EST

12/12/2022 08:10 AM EST

12/01/2022 12:59 PM EST

12/01/2022 10:57 AM EST

Registrant's Status

Approved

Approved

Approved

Approved

Approved

Approved

Approved

Approved

Unsubscribed

No

No

No

No

No

No

No

No

DAPC Procedures for Permitting Sources of Air Pollution Proposed Rules

Jan. 5, 2023

Hello and welcome to Ohio EPA's public hearing regarding the Division of Air Pollution Control's proposed rules. My name is Cathryn Allen and I'm hosting today's public hearing. With me today from Ohio EPA's Division of Air Pollution Control is Paul Braun and our Rules Manager Mandi Payton. In a moment, we will move to the public hearing where we will take official comments on the proposed rules.

For those attending online, you may submit any comments you have about the proposed rules in the Questions pane at any time.

We will not be responding to any comments submitted during the public hearing today. I will read aloud any comments we receive in the GoTo platform.

Before we get started, I'd like to go over a few items to help our online attendees navigate the GoTo platform.

On this slide you will see an example screenshot of your Attendee interface. You should see something that looks like this on your computer desktop on the right-hand side of your screen. For this public hearing you are listening in using your computer audio. If you are having sound issues or if the slides stop advancing, try refreshing your browser. If that doesn't work, try logging off and logging back in.

Please submit public comments by clicking on the question mark icon and typing them into the Questions pane on your attendee interface. You may send your comments in at any time. All comments submitted will be read aloud for the whole audience to hear.

You can also click on the document icon to view included handouts.

We will now begin the hearing.

PUBLIC HEARING SPEECH

Thank you for taking time to attend this hearing before Ohio EPA. The purpose of the hearing today is to obtain comments from any interested person regarding Ohio EPA's proposed rules.

Ohio EPA, Division of Air Pollution Control proposes to amend, new and rescinded rules in Ohio Administrative Code (OAC) Chapter 3745-31, "Permits-to-Install New Sources and Permit-to-Install and Operate Program" to the Joint Committee on Agency Rule Review (JCARR).

These rules relate to procedures for permitting sources of air pollution. Our preliminary review indicates that the rules continue to be necessary, and some require changes. Minor changes are being proposed to OAC rules 3745-31-01, 3745-31-02, 3745-31-05 to 3745-31-07, 3745-31-09 to 3745-31-29, and 3745-31-32. Ohio EPA is also changing OAC rule 3745-31-03, moving portions of the rule related to permit-by-rule into new OAC rule 3745-31-30.

Pursuant to Part D of Title I of the Clean Air Act, Ohio EPA is required to establish a state implementation plan or SIP for the attainment and maintenance of the National Ambient Air Quality Standards. The above-mentioned rules are a part of Ohio's SIP and the proposed amendments will be submitted to U.S. EPA as a modification of the SIP. This hearing shall be considered the public hearing for the SIP submittal.

These rules have been filed with the Joint Committee on Agency Rule Review. Copies of the rules are available for public review on our website and in the handouts section in GoTo.

All interested persons are entitled to attend or be represented, and to present written comments concerning the proposed rules. All written 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, Jan. 5, 2023. These comments may be typed into the GoTo platform today or emailed to DAPC-Comments@epa.ohio.gov. All

emailed comments submitted for the record receive the same consideration as typed comments given today.

Written statements submitted after today may be considered as time and circumstances permit but will not be part of the official record of the hearing.

This hearing affords citizens an opportunity to provide input. Therefore, we will not be able to answer questions today.

YOU MAY NOW SUBMIT COMMENTS IN WRITING. I will read aloud any comments we receive in the Questions pane. For those attending in person that would like to comment, please raise your hand and when we call on you, please state your name and spell it before proceeding with your testimony. I will keep the hearing open until 11:00 a.m. to provide time for participants to type in comments.

CLOSING

After the hearing closes, we will accept written comments through 5:00 p.m. today. You can send those comments to the email address on the screen.

Thank you for your comments, cooperation, and participation in Ohio EPA's decision-making process. The time is now _____ and this hearing is concluded.



Division of Air Pollution Control Response to Comments

Rule: Five-Year Rule Review of Rules in Ohio Administrative Code (OAC) Chapter 3745-31, "Permits-to Install New Sources and Permit-to-Install and Operate Program"

Agency Contact for this Package

Division Contact: Michael Hopkins, DAPC, 614-644-3611, michael.hopkins@epa.ohio.gov

Ohio EPA held a public hearing and comment period regarding the five-year review of the rules in OAc Ch. 32745-31 beginning on November 30, 2022 and ending on January 5, 2023 with the public hearing on January 5, 2023. This document summarizes the comments and questions received during the comment period and at the public hearing, which both ended on January 5, 2023.

Ohio EPA reviewed and considered all comments received. 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.

OAC rule 3745-31-03, "Exemptions"

Comment 1: The commentor stated the following:

Ohio EPA has proposed a new permanent exemption in OAC 3745-31-03(B)(1)(III) for the following equipment.

"Temporary portable flares used in conjunction with on-site repairs, maintenance, or construction/dismantlement of pipelines used for transmission or downstream distribution of natural gas, butane, or similar liquified petroleum gas, that are not located at well sites or natural gas processing facilities, and are operated in accordance with 40 CFR 60.18."

Blue Racer respectfully requests that Ohio EPA revise this proposed exemption as noted below.

"Temporary portable flares used in conjunction with on-site repairs, maintenance, or construction/dismantlement of pipelines used for transmission or downstream distribution of natural gas, butane, or similar liquified petroleum gas, that are not located at well sites or natural gas processing facilities, and are operated in accordance with 40 CFR 60.18."

Temporary portable flares are an effective means of reducing emissions of volatile organic compounds (VOCs) and greenhouse gases (GHGs) during maintenance activities at facilities in every segment of the natural gas industry. In the case of GHGs, oxidation of methane through flaring converts each controlled molecule of methane into carbon dioxide, which has a defined warming potential twenty-five times lower than that of methane. Although the precise concentrations of various hydrocarbons, VOCs, and GHGs in the gas streams handled at these facilities may differ throughout the industry, and even within the same industry segments among different geographic regions of a single state, the flares achieve consistent combustion efficiencies regardless of variations in the constituencies of these hydrocarbon mixtures when properly operated. Furthermore, the types and quantities of secondary pollutants generated through combustion in these flares would be described and quantified by the same types of emission factors (e.g., AP-42 Chapter 13.5) for any facility in the natural gas industry. A temporary portable flare in the transmission and distribution segment is not necessarily lower-emitting than a temporary portable flare located in other segments of the natural gas industry.

Revising the proposed exemption to the suggested language above will incentivize operators in the natural gas industry to reduce emissions of VOCs and GHGs from maintenance activities.

(Jill Thornberry, Environmental Manager, Blue Racer Midstream, LLC.)

Response 1: Ohio EPA is not against possibly expanding the situations where a temporary flare can be used without obtaining a permit. However, at this time, we have not done the research to determine the frequency, the size and expected emissions when portable flares are used at production, gathering, boosting and process facilities. We have also not yet determined the impact of exempting these flares from those facilities. Because we do not have this information at this time, and we want to get the current rule through the process as soon as possible so many sources can take advantage of the new exemptions, we respectfully decline to make the suggested change at this time. We will, however, do the research and consider this change the next time OAC rule 3745-31-03 is updated.

Comment 2: The commentor stated the following:

Ohio EPA has proposed a new permanent exemption in OAC 3745-31-03(B)(1)(kkk) for the following equipment.

"Valve sites and metering and regulating facilities within the natural gas transmission and downstream distribution pipeline system that have a potential to emit of less than 5.0 tons of VOC per year."

Blue Racer respectfully requests that Ohio EPA revise this proposed exemption as noted below.

*"Valve sites and metering and regulating facilities within the natural gas **industry associated with the production, gathering and boosting, processing,** transmission and downstream distribution ~~pipeline system of natural gas, natural gas condensate, or natural gas liquids~~ that have a potential to emit of less than 5.0 tons of VOC per year."*

Valve sites and metering and regulating facilities are used throughout the natural gas industry, and are not exclusive to the transmission and distribution segment. Although the precise concentrations of various hydrocarbons, VOCs, and GHGs in the gas streams handled at these facilities may differ throughout the industry, and even within the same industry segments among different geographic regions of a single state, the limited frequency and volume of gas releases from these sites are such that emissions would not be expected to exceed 5.0 tons of VOC per year regardless of variations in the constituencies of these hydrocarbon mixtures. If an owner or operator calculates potential emissions of less than 5.0 tons of VOC per year from a metering and regulating facility, that site should be exempt from air permitting irrespective of where in the natural gas industry segment the facility is located.

Revising the proposed exemption pursuant to the suggested language above will eliminate the administrative burden associated with the development, submittal, and review of air permit applications for these facilities which are known to exhibit limited emissions, and provide consistency with the rationale for the proposed exemption from similar facilities with similar emission potentials for which the exemption is being considered

(Jill Thornberry, Environmental Manager, Blue Racer Midstream, LLC.)

Response 2:

Ohio EPA is not against reviewing this request and possibly expanding the exemption sometime in the future. It will take some research to fully understand the types of valve sites, metering and regulating equipment that could also be exempt under the expansion. Currently, any valve sites, metering and regulating type equipment located at a production, gathering, boosting, or processing facility are considered as part of the facility and are required to meet U.S. EPA's New Source Performance Standard (NSPS) leak detection requirements that are typically included in the leak detection

emissions unit in the permits. So, splitting that equipment out and fully vetting the appropriateness of exempting them from permitting would need to be done.

It is also unclear at this point if U.S. EPA's proposed NSPS subpart OOOOb or the proposed model rules under NSPS subpart OOOOc would apply to these sources.

Ohio EPA believes it is more important to move forward with this rule package now so that other industries can take advantage of the other new exemptions and permit-by-rules as soon as possible. Fully analyzing the above request would likely delay the rule package six months or more. As such, we respectfully decline to make the requested change at this point. We will, however, consider the request when this rule is next open for an update.

End of Response to Comments