

# Hearing Summary

Rule Package: OAC Ch. 3745-15 5-year review

Original filing date: November 29, 2022

Public comment start date: November 29, 2022

Public comment end date: January 18, 2023

Public hearing date: January 6, 2023, 10:30 AM, virtual and at Columbus, Ohio

List of Rules: OAC 3745-15-(01, 03, 05, 06), 3745-14-11, 3745-17-07

 

 

 

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

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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.

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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 3745-15, "General Provisions on Air Pollution Control", Rule 3745-14-11, "Portland cement kilns", and Rule 3745-17-07, "Control of visible particulate emissions from stationary sources".**

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 rules in Ohio Administrative Code (OAC) Chapter 3745-15, "General Provisions on Air Pollution Control", Rule 3745-14-11, "Portland cement kilns", and Rule 3745-17-07, "Control of visible particulate emissions from stationary sources" to the Joint Committee on Agency Rule Review (JCARR).

The public comment period will run until Friday, January 6, 2023. A public hearing on this proposed rulemaking will be held on **Friday, January 6, 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 6, 2023 to [DAPC-Comments@epa.ohio.gov](mailto:DAPC-Comments@epa.ohio.gov).

Citizens who want to participate virtually must register in advance for the meeting at: <https://attendee.gotowebinar.com/register/7917842044217550861>.

Pursuant to Part D of Title 1 of the Clean Air Act, the state of Ohio is required to establish a state plan for the attainment and maintenance of the national ambient air quality standards (NAAQS). Ohio EPA plans to submit the above-mentioned rules to U.S. EPA for inclusion/amendment to Ohio's plan, except for OAC rule 3745-15-01(P), 3745-15-06(A)(3) or 3745-15-06(C). Ohio will also request OAC rule 3745-17-07(A)(3)(c) and 3745-17-07(B)(11)(f) be removed from the SIP. The above-mentioned hearing shall be considered the public hearing for this rulemaking portion of the plan 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](mailto: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 6, 2023 will be considered by Ohio EPA prior to final action on this rule and SIP revisions. Written statements submitted after January 6, 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](mailto: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

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01/06/2023 05:04 PM EST

### General Information

**Webinar Name**

Proposed Rulemaking: General Provisions on Air Pollution Control

**Scheduled Start Date**

01/06/2023

**Scheduled Start Time**

10:30:00 AM EST

**Scheduled Duration (minutes)**

30

### Registrants

**First Name**

Greg  
Honor  
Aron  
Mark  
Jennifer  
Nathan  
Alexia  
Cindi

**Last Name**

Fouche  
Banvard  
Schnur  
Miller  
Avellana  
Vaughan  
Prosperi  
Newton

## GoTo Webinar

**Webinar ID**

530-388-307

**Registered**

8

**Opened Invitation**

0

**Clicked Registration Link**

24

**Email**

gfouche@jcarr.state.oh.us  
honor.banvard@jcarr.state.oh.us  
aschnur@bdlaw.com  
cmmiller2@columbus.gov  
jennifer.avellana@dupont.com  
nvaughan@kimblecompanies.com  
alexia.prosperi@usda.gov  
cnewton@meaa.mea.com

**Registration Date**

01/06/2023 10:31 AM EST  
01/06/2023 10:29 AM EST  
01/05/2023 05:28 PM EST  
01/05/2023 02:12 PM EST  
01/03/2023 09:54 AM EST  
12/12/2022 08:10 AM EST  
11/30/2022 10:47 AM EST  
11/30/2022 06:20 AM EST

**Registrant's Status**

Approved  
Approved  
Approved  
Approved  
Approved  
Approved  
Approved  
Approved

**Unsubscribed**

No  
No  
No  
No  
No  
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No  
No

## **DAPC Procedures for Permitting Sources of Air Pollution Proposed Rules**

Jan. 6, 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 rules in Ohio Administrative Code (OAC) Chapter 3745-15, "General Provisions on Air Pollution Control", Rule 3745-14-11, "Portland cement kilns", and Rule 3745-17-07, "Control of visible particulate emissions from stationary sources" to the Joint Committee on Agency Rule Review.

Pursuant to Part D of Title 1 of the Clean Air Act, the state of Ohio is required to establish a state plan for the attainment and maintenance of the national ambient air quality standards. Ohio EPA plans to submit the above-mentioned rules to U.S. EPA for inclusion/amendment to Ohio's plan, except for OAC rule 3745-15-01(P), 3745-15-06(A)(3) or 3745-15-06(C). Ohio will also request OAC rule 3745-17-07(A)(3)(c) and 3745-17-07(B)(11)(f) be removed from the SIP. This hearing shall be considered the public hearing for this rulemaking portion of the plan 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, Jan. 18, 2023. These comments may be typed into the GoTo platform today or emailed to [DAPC-Comments@epa.ohio.gov](mailto: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. Jan. 18. 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

**Regarding:** Comments on Proposed Amendments to Rules in Ohio Administrative Code (OAC) Chapter 3745-15 "General Provisions on Air Pollution Control", OAC Rule 3745-14-11 "Portland Cement Kilns", and OAC Rule 3745-17-07 "Control of Visible Particulate Emissions from Stationary Sources"

### Agency Contact for this Package

Division Contact: Jennifer Van Vlerah, 614-644-3696 or [Jennifer.vanvlerah@epa.ohio.gov](mailto:Jennifer.vanvlerah@epa.ohio.gov)

Ohio EPA held a public hearing on January 6, 2023 and a 30-day public comment period, which was extended by 12 days, ending January 18, 2023 regarding the above-mentioned rules. This document summarizes the comments and questions received during the public hearing and associated comment period.

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:** In the Rule Synopsis that Ohio EPA released on November 29, 2022, Ohio EPA announced that it did not intend to submit its new proposed definition of "malfunction" for inclusion in Ohio's State Implementation Plan ("SIP"). Ohio EPA also announced that it intended to ask to remove Ohio Adm.Code 3745-15-06(A)(3) and (C) from Ohio's SIP. Subsequently, Ohio EPA asked the public to comment on whether Ohio EPA should also remove paragraph (B) (the malfunction reporting rule) and paragraph (D) (the paragraph authorizing Ohio EPA's director to require a preventive maintenance and malfunction abatement plan under certain circumstances) from the SIP.

The Trade Associations believe it would be preferable to include both the new definition of "malfunction" and the malfunction reporting rule in the SIP. What is paramount, however, is that Ohio



EPA and U.S. EPA not include the malfunction reporting rule in Ohio's SIP without the proposed "malfunction" definition. Keeping the malfunction reporting rule in, but leaving the new definition of "malfunction" out, will result in confusion and potential disagreement regarding the reporting obligation, and might lead U.S. EPA to argue for its own definition of "malfunction." Ohio companies should not be exposed to potentially different Ohio EPA and U.S. EPA definitions of "malfunction" for purposes of reporting under the Ohio SIP. The Trade Associations note that malfunction reporting overlaps with multiple other reporting obligations under the Clean Air Act, including Title V deviation reporting, Compliance Assurance Monitoring (CAM) program excursion reporting, and section 112(r) release reporting, in addition to EPCRA release reporting. Ohio EPA should not create needless uncertainty under its malfunction reporting rule by disassociating the rule from the definition that makes its application clear. In short, Ohio EPA should include both the malfunction reporting rule and the definition of "malfunction" in the SIP, or it should include neither of them in the SIP. And under no circumstances should a malfunction report require or depend upon any legal conclusion or admission of liability. **(Rob Brubaker and Eric B. Gallon, Counsel for Ohio Chemistry Technology Council and the Ohio Chamber of Commerce; Lindsay Short, Ohio Manufacturers' Association; Rob Brundrett, Ohio Oil and Gas Association; and Chris Zeigler, American Petroleum Institute-Ohio (the "Trade Associations"))**

- Response 1:** After consideration of all comments received, Ohio EPA intends to include the definition of 'malfunction' in the SIP. Specifically, Ohio will request U.S. EPA approval of these rules into the SIP as follows:
- OAC rules 3745-14-11, 3745-15-01, 3745-15-03 and 3745-15-05 in their entirety;
  - OAC rule 3745-15-06, except paragraphs (A)(3) and (C) are requested to be excluded from the SIP; and
  - OAC rule 3745-17-07, except paragraphs (A)(3)(c) and (B)(11)(f) are requested to be excluded from the SIP.

#### 3745-15-01 Definitions

- Comment 2:** The Trade Associations support Ohio EPA's proposed definition of "malfunction" in Ohio Adm.Code 3745-15-01, and thank Ohio EPA for its consideration of the Trade Associations' prior comments on, and suggested improvements to, that definition. **(Rob Brubaker and Eric B. Gallon, Counsel for Ohio Chemistry Technology**

**Council and the Ohio Chamber of Commerce; Lindsay Short, Ohio Manufacturers' Association; Rob Brundrett, Ohio Oil and Gas Association; and Chris Zeigler, American Petroleum Institute-Ohio (the "Trade Associations"))**

**Response 2:** Thank you for your comment.

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

**Comment 3:** The Trade Associations also generally support Ohio EPA's proposed amendments to Ohio EPA's scheduled maintenance rule (Ohio Adm.Code 3745-15-06(A)) and malfunction reporting rule (Ohio Adm.Code 3745-15-06(B)). However, the Trade Associations continue to recommend a modification to the language requiring a written report for malfunctions that last longer than twenty-four hours. The current rule language requires a written report only if a malfunction lasts longer than seventy-two hours, and Ohio EPA has not indicated that the existing rule language has deprived the agency of necessary or important information regarding otherwise short malfunctions. As a compromise, and to shield owner/operators from unnecessary paperwork (during what are typically crisis circumstances at the plant), the Trade Associations again urge that Ohio EPA require written reports only for malfunctions that last more than forty-eight hours. Moreover, given the difficulty that owner/operators often face in gathering the necessary information to include in the written reports, the Trade Associations urge Ohio EPA to retain the existing language providing two weeks to submit the written report. **(Rob Brubaker and Eric B. Gallon, Counsel for Ohio Chemistry Technology Council and the Ohio Chamber of Commerce; Lindsay Short, Ohio Manufacturers' Association; Rob Brundrett, Ohio Oil and Gas Association; and Chris Zeigler, American Petroleum Institute-Ohio (the "Trade Associations"))**

**Response 3:** Ohio EPA continues to believe the requirement to submit a written statement within one week for malfunctions that continue for more than twenty-four hours is reasonable. Source malfunctions of twenty-four hours or more are significant events that need to be communicated in a timely manner to Ohio EPA. Therefore, this provision will be finalized as proposed.

**Comment 4:** "Does Ohio EPA not believe that any of the new provisions proposed under 3745-15-06(A) are likely to be rejected by USEPA if submitted as part of the SIP? It seems like the only provision under subsection A that OEPA is not going to submit as part of the

SIP is the one that was specifically identified under the SIP Call. However, some of the new provisions under subsection A also appear to be vulnerable.” **(Aron Schnur, Beveridge & Diamond PC)**

**Response 4:** Ohio EPA has extensively engaged with U.S. EPA on this rulemaking, and they have not expressed concerns with these portions of the proposed regulations, nor did they submit official comments indicating any concerns.

**Comment 5:** Several of the proposed revisions in OAC 3745-15-06 are in addition to, and/or are to occur at a higher frequency than what is already required under Title 40, Code of Federal Regulations (CFR), Chapter I, Subpart C, Part 63 – “National Emission Standards for Hazardous Air Pollutants for Source Categories”, Subpart A – “General Provisions.”, namely §63.10(d)(5)(i) and (ii). Such Ohio regulatory changes stand to create unnecessary confusion, and additional requirements which go above and beyond existing reporting timeframes without any substantial meaningful benefit to the community at large. In order to avoid such excessive complexity in reporting requirements, OESI urges Ohio EPA to make its proposed reporting requirements under OAC 3745-15-06 consistent with, and no more stringent than those under 40 CFR §63.10(d)(5)(i) and (ii), since the existing federal regulatory framework is generally more concise, easier to navigate and more than sufficient for its intended purpose. **(Thomas P. Pappas, Ohio Environmental Services Industries)**

**Response 5:** 40 CFR Part 63 is the National Emissions Standards for Hazardous Air Pollutants (NESHAP) and only applies to sources subject to that federal regulation. OAC 3745-15-06, on the other hand, applies more generally to malfunctions at a wider variety of sources in Ohio. Furthermore, the proposed reporting requirements under OAC 3745-15-06 are not more stringent than the NESHAP reporting requirements. Ohio’s rules have been in place for many years to enable Ohio EPA to respond quickly to events regulated under this rule. First, this rule addresses the need for Ohio EPA to review and approve schedule maintenance requests in a timely manner. Second, Ohio’s malfunction rules are intended to provide necessary information to Ohio EPA in a timely manner in order to enable Ohio EPA to respond quickly under malfunctioning conditions, address critical concerns if there are potential health threats and respond to public inquiries during these situations. We believe the reporting timelines we have established are critical to fulfilling Ohio EPA’s role under this rule.

**Comment 6:** Columbus DPU reiterates its request from our July 8, 2022 draft rule comments that Ohio EPA add express language allowing for a rolling maintenance program in OAC 3745-15-06(A)(3).

The updated rule should read, " ... The director shall authorize the shutdown of the air pollution control equipment if, in the director's judgment, the situation justifies continued operation of the source.

**When multiple process units share common Air Pollution Control Equipment and the owner is able to isolate one unit at a time for maintenance while the remaining process units and APCE continue to operate, the Director shall (may) authorize a rolling program of routine maintenance upon request for authorization of scheduled maintenance for the first unit. Owner must provide a description and justification of activities and a preliminary schedule for the rolling maintenance program and provide periodic schedule reviews and updates according to the Director's authorization.** Any written report submitted .... "

Ohio EPA provided this response to Columbus DPU's original request:

*Response 12: Ohio EPA is currently under a tight timeline for this rulemaking due to the pending SSM SIP call. The suggested changes are editorial in nature and do not change the intent of the rule. This suggestion may be considered the next time these rules are revised.*

Ohio EPA's response is inconsistent with the Public Hearing Notice for this Proposed Rulemaking which excludes OAC 3745-15-06(A)(3) from the agency response to the SIP call:

*"Ohio EPA plans to submit the above-mentioned rules to U.S. EPA for inclusion/amendment to Ohio's plan, except for OAC rule 3745-15-01(P), 3745-15-06(A)(3) or 3745-15-06(C)."*

Columbus DPU's comment requests an improved regulatory process that allows Ohio EPA and numerous operators with multiple source/ common APCE configurations to reduce redundant paperwork and communication. Columbus DPU anticipates that it will have frequent, scheduled maintenance authorization requests in the next few years which would benefit if Ohio EPA adopts its proposed language during this-rather than a future-rulemaking.

Specifically, Columbus DPU operates two wastewater treatment plants with six or ten digester units at each plant. Both plants will be rehabilitating their digesters over the next several years. Columbus DPU expects to utilize rolling maintenance programs during this process, with every digester coming out of service at some point. Columbus DPU is also planning to utilize our digesters for energy production for our plants, and to begin acceptance of organic wastes from outside our plants. This program will offer significant benefits to both our customers and the environment, but also entail additional responsibility to our utility. In short, the upkeep and maintenance of these digester units will become even more critical. We expect that, without Columbus DPU's suggested language in OAC 3745-15-06(A)(3), Columbus DPU would be continually submitting (and Ohio EPA reviewing) authorization requests for scheduled digester maintenance.

Columbus DPU strongly believes that OAC 3745-15-06(A)(3) should offer operators with an established need for routine maintenance of multi-source systems an opportunity to establish rolling maintenance programs for their equipment without the need to seek re-authorization for each unit's step in the program. Columbus recommends that the above suggested text insertion will provide opportunity for operators and Ohio EPA to work together to streamline administration of this rule. **(Janean Weber, Columbus Department of Public Utilities)**

**Response 6:** This would be a significant change to the regulatory framework and a change of this nature would likely take significant time to work out the details. As noted in the previous response, we are focusing our current rulemaking effort to address the SSM SIP call and are under a very tight timeline. We may consider this request in a future rulemaking.

In the meantime, the existing rule provisions allow flexibility to allow annual permissions if a company has a series of scheduled maintenance activities throughout the year (i.e., routine scrubber or baghouse maintenance, inspections requiring shutdown of the control equipment, etc.). We understand you have been working with Ohio EPA staff regarding prior requests and how to address these types of concerns given the current regulatory framework. We encourage you to continue those discussions.

**Comment 7:** With regard to the proposal to revise the SIP to remove OAC rule 3745-15-06 (B), (C) and (D) in their entirety, Columbus DPU supports the proposed revision. The success of Ohio's SIP is

appropriately drawn from compliance with emission standards and permit limits. But the collection of information and Director's discretions for remediation of malfunction situations covered by OAC 3745-15-06(B), (C) and (D) is not so critical to the general compliance-based success of the SIP that it merits the federal oversight imposed by inclusion in the SIP. Ohio EPA should be free to address malfunctions with case-by-case discretion and potentially change these rule sections to improve efficiency or flexibility without concern for altering its SIP commitments and the attendant additional federal rigor. The manner in which Ohio and its permittees address malfunctions are not germane to SIP success and do not need federal oversight or constraint.

While it may be appropriate and necessary to retain OAC 3745-15-06(A)(1) and (2) in the SIP, the Director's discretion afforded by OAC 3745-15-06(A)(3) to encourage source maintenance in support of compliance is also appropriately removed from the SIP with the same justifications stated above for OAC 3745-15-06(B), (C) and (D). Thus, Columbus DPU supports Ohio EPA in the proposed removal of OAC 3745-15-06(A)(3) from the SIP. **(Janean Weber, Columbus Department of Public Utilities)**

**Response 7:** Thank you for your comment. After consideration of all comments received, Ohio EPA intends to request U.S. EPA approval of these rules into the SIP as follows:

- OAC rules 3745-14-11, 3745-15-01, 3745-15-03 and 3745-15-05 in their entirety;
- OAC rule 3745-15-06, except paragraphs (A)(3) and (C) are requested to be excluded from the SIP; and
- OAC rule 3745-17-07, except paragraphs (A)(3)(c) and (B)(11)(f) are requested to be excluded from the SIP.

**Comment 8:** OAC rule 3745-15-06(A)(3)(a) as proposed requires identification of "permit application number". Permit application numbers are assigned by Ohio EPA for internal use. Facilities receive permit numbers and emissions unit numbers. The term should be changed to "permit number, emissions unit number(s)":

(a) The identification, including the Ohio EPA facility identification number and permit ~~application~~ number, emissions unit number(s) and location of the specific source for which air pollution control equipment will be taken out of service.

**(Andrew Weisman, Regional Air Pollution Control Agency)**

**Response 8:** Ohio EPA is currently under a tight timeline for this rulemaking due to the pending SSM SIP call. The suggested changes are editorial in nature and do not change the intent of the rule. This suggestion may be considered the next time these rules are revised.

**Comment 9:** OAC rule 3745 -15-06(A)(3)(d) needs to be reworded from:

(d) Measures such as the use of off-shift labor and equipment that will be taken to minimize the length of the scheduled maintenance.

To

(d) Measures ~~such as the use of off-shift labor and equipment~~ that will be taken and any equipment used to minimize the ~~length~~ duration of the scheduled maintenance.

**(Andrew Weisman, Regional Air Pollution Control Agency)**

**Response 9:** Ohio EPA is currently under a tight timeline for this rulemaking due to the pending SSM SIP call. The suggested changes are editorial in nature and do not change the intent of the rule. This suggestion may be considered the next time these rules are revised.

3745-17-07 Control of visible particulate emissions from stationary sources.

**Comment 10:** Finally, the Trade Associations support Ohio EPA's proposal to maintain the existing malfunction/shutdown exceptions to the opacity limits for stack emissions and fugitive dust in Ohio Adm.Code 3745-15-07, but remove them from Ohio's SIP. As noted above, the Trade Associations disagree with U.S. EPA's contention that such exceptions are inconsistent with the Clean Air Act. Unless and until the D.C. Circuit reverses U.S. EPA's finding that such exceptions are substantially inadequate to meet federal Clean Air Act requirements, however, it is reasonable to continue providing the malfunction/shutdown exceptions under state law only. **(Rob Brubaker and Eric B. Gallon, Counsel for Ohio Chemistry Technology Council and the Ohio Chamber of Commerce; Lindsay Short, Ohio Manufacturers' Association; Rob Brundrett, Ohio Oil and Gas Association; and Chris Zeigler, American Petroleum Institute-Ohio (the "Trade Associations"))**

**Response 10:** [Note: it is assumed the author intended to cite OAC rule 3745-17-07]. Thank you for your comment.

**End of Response to Comments**