

Hearing Summary

Rule Package: OAC Ch 3745-17, "PM Standards Rules", 5-year review

Original filing date: May 24, 2023

Public comment start date: May 24, 2023

Public comment end date: June 27, 2023

Public hearing date: June 27, 2023

List of Rules: OAC Rules 3745-17-(01, 03, 04 and -07 to -14)

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. These recordings may be sent out for transcription if necessary.

OHIO ENVIRONMENTAL PROTECTION AGENCY

**Public Hearing Notice
Proposed Rulemaking Governing
Amendments to Ohio Administrative Code (OAC) Chapter 3745-17, Particulate Matter Standards
Updates and Five-Year Rule Review**

Notice is hereby given that the Director of Environmental Protection, under the authority of Section 3704.03(E) of the Ohio Revised Code and in accordance with Chapter 119, the Ohio EPA proposes to amend rules in Ohio Administrative Code (OAC) Chapter 3745-17, "Particulate Matter Standards". These rules set limits, testing and recordkeeping requirements for emissions of particulate matter in the state of Ohio.

Changes made to the rules in this chapter include updates to facilities mentioned, minor corrections, such as typos and fixes to formatting to conform with LSC conventions and updating referenced materials to the most current version. Additionally, an exemption from method 9 testing was added for facilities that burn only natural gas.

Pursuant to Section 121.39 of the Ohio Revised Code, Ohio EPA was required to consult with interested parties affected by the rules before the agency formally adopts them. On January 19, 2023, these rules went out for a 30-day review by interested parties. Please see the rule synopsis, available electronically at the web address below, for a complete summary of the proposed rule amendments.

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 rule is a part of Ohio's SIP for the attainment and maintenance of the particulate matter NAAQS and the proposed amendments will be submitted to United States Environmental Protection Agency (U.S. EPA) as a modification of the SIP. The below hearing will also serve as the hearing for the SIP submittal.

Ohio EPA will be accepting comments on the proposed amended rules until **Tuesday, June 27, 2023**. 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. Ohio EPA will be holding an in-person and virtual public hearing on the rules on **June 27, 2023**. The in-person hearing will be at the same time and date and will be located 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.

Citizens who want to participate virtually must register in advance for the meeting at: <https://attendee.gotowebinar.com/register/6654723090164768088>.

Registration for the in-person hearing is not required. Citizens 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 or by emailing mary.mccarron@epa.ohio.gov. 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 Paul Braun in the Division of Air Pollution Control (DAPC), P.O. Box 1049, Columbus Ohio 43216-1049 or can be emailed to DAPC-Comments@epa.ohio.gov. 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 4, 2023 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 Paul Braun in DAPC at the above email address or at 614-644-3734.

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 DAPC web page at <https://epa.ohio.gov/divisions-and-offices/air-pollution-control/regulations/proposed-rules>.

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

DAPC Particulate Standards Proposed Rules

June 27, 2023

Hello and welcome to Ohio EPA's public hearing regarding the Division of Air Pollution Control's proposed rules. My name is Mary McCarron 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.

The director of Ohio Environmental Protection Agency, under the authority of Section 3704.03(E) of the Ohio Revised Code and in accordance with Chapter 119, the Ohio EPA proposes to amend rules in Ohio Administrative Code (OAC) Chapter 3745-17, "Particulate Matter Standards". These rules set limits, testing and recordkeeping requirements for emissions of particulate matter in the state of Ohio.

Changes made to the rules in this chapter include updates to facilities mentioned, minor corrections, such as typos and fixes to formatting to conform with LSC conventions and updating referenced materials to the most current version. Additionally, an exemption from method 9 testing was added for facilities that burn only natural gas.

Pursuant to Section 121.39 of the Ohio Revised Code, Ohio EPA was required to consult with interested parties affected by the rules before the agency formally adopts them. On January 19, 2023, these rules went out for a 30-day review by interested parties. Please see the download the rule synopsis in the handouts section for a complete summary of the proposed rule amendments.

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 abovementioned rule is a part of Ohio's SIP for the attainment and maintenance of the particulate matter NAAQS and the proposed amendments will be submitted to United States Environmental Protection Agency (U.S. EPA) as a modification of the SIP. The below hearing will also serve as the 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, June 27, 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: OAC Chapter 3745-17, "Particulate Matter Standards"

Agency Contact for this Package

Division Contact: Paul Braun, 614.644-3734, paul.braun@epa.ohio.gov

Ohio EPA held a public hearing on June 27, 2023 virtually and in Columbus, Ohio with a corresponding comment period ending June 27, 2023 regarding proposed amendments to the above mentioned rules. This document summarizes the comments and questions received during the 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.

3745-17-03(C)(1), "Measurement Methods and Procedures"

Comment : On May 24, 2023, Ohio EPA noticed its proposal of amended rule, OAC Chapter 3745-17. The following are the comments of the Ohio Utilities Group and its member companies (hereinafter referred to as "OUG"). OUG filed multiple comments on previous iterations of Ohio's particulate matter standards, including the 2013 and 2018 rulemakings, copies of which are attached.

The particulate matter standards proposed then and now suffer from the same flawed approach regarding alternatives to the mandatory requirement for COMs on an Appendix P source. The regulations originally proposed by Ohio EPA in 2016 (but later dropped before final adoption) represented a reasonable and lawful set of alternatives to using a COM on a wet stack that maintained compliance with the SIP limits. The alternatives ultimately adopted by Ohio EPA, however, are unreasonable and unlawful because they are not supported by either legal requirements or a technical basis.

The current proposal is similarly flawed and, thus, similarly unreasonable and unlawful.

OUG encourages Ohio EPA to reconsider its current rule and instead adopt the alternatives contained in the original 2016 proposed rule.

(Michael E. Born on behalf of the Ohio Utilities Group)

Response : Ohio EPA acknowledges that in both the previous 5-year review rulemaking (Adopted January 9, 2018) and in a separate rulemaking (sent out for draft public

comment August 15, 2018 with comment ending September 14, 2018) that draft language meant to offer alternatives to using a COM on a wet stack was prepared. In both cases, Ohio EPA received push back from U.S. EPA on the language, indicating that the language was not federally approvable as presented. In the case of the 5-year review rulemaking, Ohio EPA found it necessary to remove the language and finish the rulemaking to adopt important alternatives necessary for other facilities. In the case of the September 2018 draft rule language, upon receiving comments from U.S. EPA that the language was again not approvable, Ohio EPA attempted to work with the OUG to modify the language so that it would be SIP approvable and address OUG's request. To date, we have not been able to reach a solution that provides for both. Ohio EPA is open to continuing dialogue on the matter.

End of Response to Comments