



MEMORANDUM OF RESPONSE

To: Joseph Baker, Director

From: Mandi Payton, Rules Coordinator

Date: October 27, 2022

Subject: Memorandum of Response to CSI Review – General Provisions on Air Pollution Control, Portland Cement Kilns, and Control of Visible Particulate Emissions from Stationary Sources (OAC 3745-14-11, 3745-15-01, OAC 3745-15-02, OAC 3745-15-03, OAC 3745-15-04, OAC 3745-15-05, OAC 3745-15-06, OAC 3745-15-07, OAC 3745-15-08, OAC 3745-15-09, and OAC 3745-17-07)

Recommendations

On October 27, 2022, Ohio EPA received the recommendations for the Division of Air Pollution Control's General Provisions, Portland Cement Kilns, and Control of Visible Particulate Emissions from Stationary Sources (OAC 3745-14-11, 3745-15-01, OAC 3745-15-02, OAC 3745-15-03, OAC 3745-15-04, OAC 3745-15-05, OAC 3745-15-06, OAC 3745-15-07, OAC 3745-15-08, OAC 3745-15-09, and OAC 3745-17-07) rules.

The CSI memorandum stated that:

"During the early stakeholder review process, OEPA provided the rules to approximately 3,300 entities registered to receive notification regarding Division of Air Pollution Control rules and posted the information on its website. Based on comments from stakeholders, OEPA incorporated a definition for equipment malfunctions, updated hyperlinks and publication dates, provided additional flexibility for maintain records at an alternate location, and corrected a typographical error. During the CSI public comment process, comments were received from the Columbus Department of Public Utilities, Ohio Cast Metals Association (OCMA), AMG Vanadium, Toledo Refining Company, as well as joint comments from a coalition of business groups including the Ohio Manufacturers' Association, Ohio Chamber of Commerce, Ohio Oil and Gas Association, Ohio Chemistry and Technology Council, and American Petroleum Institute-Ohio (Coalition). Columbus Department of Public Utilities requested several definitional clarifications, to which OEPA responded but did not adopt changes. OCMA, Toledo Refining Company, and AMG Vanadium recommended removing a requirement that an entity notify OEPA regarding exceeding an allowable limitation through the 24-hour spill hotline, even in cases where no imminent risk exists. In response, OEPA removed the provision from the rule. OCMA also recommended clarifying a notification requirement to make clear that the regulated entity may provide notice by means other than certified mail, a change also agreed to by OEPA.

Both OCMA and the Coalition recommended that OEPA determine not to reduce the reporting threshold for source malfunctions from seventy-two to twenty-four hours and allow the owner or operator to provide the report within two weeks of the event. However, OEPA determined not to adopt these recommendations as it states that such events should be reported to ensure that OEPA is made aware of the problem. Toledo Refining Company noted that the information required in certain initial notifications to OEPA may not be readily accessible to the individual providing the report. OEPA agreed with the comment and stated that information can be added to the report when additional details are available. The Coalition also requested that OEPA exempt an air pollution control equipment failure that is foreseen and prevented due to maintenance, but OEPA declined to adopt this change, explaining to CSI that it determined such events are appropriately classified, and that businesses may already propose a scheduled maintenance plan for approval by OEPA to

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address routine maintenance considerations. The Coalition also requested removal of newly proposed language placing new limitations on an exemption for stationary source malfunctions or shutdown emissions limitations and recommended various other clarifying changes which were also agreed to by OEPA.

The business community impacted by the rules includes facilities approved for an air pollution control permit by OEPA. The adverse impacts to business include time and expenses associated with complying with monitoring and reporting requirements (OEPA estimates costs of a few thousand dollars), completing testing when required by the Director (between a few hundred dollars to up to \$20,000 annually), complying with recordkeeping responsibilities, preventing odor nuisances (costing up to several millions of dollars), and limiting NOx emissions from cement kilns. OEPA notes that the State of Ohio is required under the Clean Air Act to prepare a plan to assist in the attainment and maintenance of the National Ambient Air Quality Standards. OEPA states that the adverse impacts to business are justified to provide basic rules that address the general provisions of the air pollution control program, and to comply with federal requirements.

Based on the information above, the CSI Office has no recommendations on this rule package.

The CSI Office concludes that OEPA should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.”

Next Steps

At this time, it is Ohio EPA’s plan to move forward with the original filing of these rules with the Joint Committee on Agency Rule Review.

If you have any questions, please contact Mandi Payton at amanda.payton@epa.ohio.gov.