



## MEMORANDUM OF RESPONSE

To: Caleb White, Business Advocate

From: Mandi Payton, Rules Coordinator

Date: May 15, 2023

Subject: Memorandum of Response to CSI Review – Alternative RACT Cleanup (OAC 3745-21-09 and 3745-21-26)

### Recommendations

On May 12, 2023, Ohio EPA received the recommendations for the Division of Air Pollution Control's – Alternative RACT Cleanup (OAC 3745-21-09 and 3745-21-26) rules.

The CSI memorandum stated that:

"During early stakeholder outreach, the OEPA established a 30-day stakeholder outreach period that ended on March 7, 2023. The OEPA Division of Air Pollution Control (DAPC) electronically sent out notice of the request for comments to over 3,000 members of the OEPA's electronic interested parties list for DAPC rulemaking and also posted the notice online as well as in the Director's Weekly Review publication. Comments were submitted by the Ohio Manufacturers' Association, the Schlage Lock Company, and the Columbus Department of Public Utilities. The Ohio Manufacturers' Association asked to be included in any future meetings or discussions regarding OAC chapter 3745-21. The OEPA agreed to include all interested stakeholders including the Ohio Manufacturers' Association in their rulemaking processes. The Schlage Lock Company LLC requested that OAC 3745-21-09 and 3745-21-26 be amended to eliminate the language which based the eligibility for alternative VOC RACT emission limitations on if the coating line or coating line or operation was installed or modified before or after January 1, 1974, or constructed or modified before or after March 27, 1981. The OEPA agreed with Schlage Lock Company and amended the rules to remove the date specific limitation. The Schlage Lock Company also requested that OAC 3745-21-26 be amended to clarify that the requirements outlined in paragraphs (A)(3)(f)(i) and (A)(3)(f)(ii) are mutually exclusive in their requirements for the alternative VOC RACT limit exemption. OEPA responded that paragraphs (A)(3)(f)(i) and (A)(3)(f)(ii) are mutually exclusive and stated that the paragraphs are currently interpreted as such. OEPA additionally amended the rule to include facility specific RACT alternatives in response to the comment for the facility. The Columbus Department of Public Utilities requested that OAC 3745-21-09 be amended to add an exemption for emissions units making the conversion from organic solvent for cold cleaning metal parts to an aqueous cleaning solvent. The OEPA responded that they would not be incorporating this suggestion at this time as the proposed rules are limited in scope to expeditiously issue alternative RACT limitations for the newly subject sources that are required to comply with the newly updated VOC RACT requirements which were adopted as a part of Ohio's ozone state implementation plan (SIP) and the suggested change would require a lengthier process. The OEPA stated they will reach out to the commenter to further discuss this change and incorporate the change if it is deemed appropriate. The Columbus Department of Public Utilities also requested the threshold for exemption from vapor balance control in OAC 3745-21-09 be increased from 120,000 annual gallons of gasoline to 150,000 annual gallons of gasoline, as one of its Gasoline Dispensing Facilities is required to practice vapor management upon delivery as it slightly exceeded the current threshold in 2019 and 2022. The OEPA responded they would not be incorporating this suggestion at this time as the proposed rules are limited in scope to expeditiously issue alternative RACT limitations for the newly subject sources that are required to comply with the newly updated VOC RACT requirements which were adopted as a part of Ohio's ozone state implementation plan (SIP) and the suggested change would require a lengthier

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process. The OEPA stated they will reach out to the commenter to further discuss this change and incorporate the change if it is deemed appropriate. No comments were received during the CSI public comment period.

The business community impacted by the rules include stationary facilities which emit VOCs. The adverse impacts created by the rules include limitations on VOC emissions and the costs associated with bringing their emissions below the set limit which can include control technologies such as a work practice or material change, performing an engineering study, and the installation and operation of a mechanical control device. According to the OEPA, the costs of compliance can range from zero for a control technology to a few million dollars for the installation and operation of a mechanical control device. The OEPA notes that the proposed changes to the rules will reduce the costs of compliance by expanding the ability of facilities to use alternative emissions limits by removing a restriction based on the date of installation and allowing a specified facility to request an alternative emissions limit if they are unable to comply with the emissions limits due to technical or economic infeasibility and that these requirements do not exceed the federal requirements under the "Control Techniques Guidance" and "Alternative Control Techniques." The OEPA states that the adverse impacts to business are justified to fulfill federal requirements under the Clean Air Act to control VOC emissions as part of the effort to attain and maintain National Ambient Air Quality Standards.

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

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

### **Next Steps**

Currently, 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](mailto:amanda.payton@epa.ohio.gov).