



**Division of Air Pollution Control  
Response to Comments  
Draft Rule Language Comment Period**

**Rule:** OAC Chapter 3745-17, "Particulate Matter Standards"

**Agency Contact for this Package**

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Ohio EPA held a comment period on June 7, 2016 regarding the draft rules in OAC Chapter 3745-17. This document summarizes the comments and questions received at the associated comment period, which ended on July 8, 2016.

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.

**3745-17-01, "Definitions"**

**3745-17-01(B)(12)**

**Comment 1:** First, Ohio EPA has proposed to amend the definition of "particulate emissions" to include "particulate matter measurable by \*\*\* [a]ny continuous emission monitoring system" or "alternative monitoring plan" that complies with OAC 3745-17-03(D) or (E).

Initially, Ohio EPA's draft paragraph OAC 3745-17-01(B)(12)(c), which would expand the definition of "particulate emissions" to include "particulate matter measurable by \*\*\* [a]ny alternative monitoring plan that complies with paragraph (E) of rule 3745-17-03," includes an inherent contradiction. An alternative monitoring plan under draft OAC 3745-17-03(E) would not measure particulate matter emissions. Instead, it would allow a facility to set operating parameter ranges, based on and verified by method 5B testing, within which Ohio EPA would assume compliance with the underlying particulate matter mass limit. Although the method 5B test itself measures particulate emissions, the parameters are at best surrogates – not measurements – of actual particulate matter emissions. Accordingly, it makes no sense to expand the definition of "particulate

emissions” to include particulate matter “measurable by” such an alternative monitoring plan.

Additionally, if expanding the definition of “particulate emissions” to include particulate matter not measurable by an EPA Reference Method would affect the stringency of any pre-existing compliance obligation in OAC Chapter 3745-17, that change would need to be analyzed and justified under section 110 of the CAA and R.C. 3704.03(E). Nothing in Ohio EPA’s draft Business Impact Analysis for these amendments indicates that Ohio EPA has undertaken such an analysis or prepared such a justification.

At base, though, we believe the proposed amendment to OAC 3745-17-01(B)(12) is misguided and unnecessary. The current regulation defines “particulate emissions” as “particulate matter measurable by” an applicable EPA Reference Method. The fact that draft OAC 3745-17-03(D) would allow some sources to use a PM CEMS is not a reason to expand the definition of “particulate emissions,” absent some reason to believe that a PM CEMS would measure particulate matter that is not “measurable by” an applicable EPA Reference Method. For all of these reasons, we urge DAPC to retract its unnecessary and inappropriate draft amendment to OAC 3745-17-01(B)(12). **(Eric B. Gallon and Robert L. Brubaker, Porter, Wright, Morris and Arthur LLP, on behalf of numerous and diverse companies)**

**Response 1:**

Ohio EPA has removed the proposed revisions to OAC rule 3745-17-01(B)(12) and replaced it with the following:

"Particulate emissions" or "particulate matter emissions" means particulate matter measurable by one of the following:

- (a) The applicable test methods in 40 CFR part 60, appendix A, "Standards of Performance for New Stationary Sources."
- (b) Continuous emissions monitoring certified in accordance with 40 CFR part 60, appendix B, performance specification 11, for any owner or operator complying with paragraph (D) or rule 3745-17-03 of the Administrative Code.

The revision of OAC rule 3745-17-01(B)(12) was made to accommodate the new compliance options provided in OAC rule 3745-17-03(D). This revision will not impact the stringency of any pre-existing compliance obligations. The revision above directly references the federal methods for measuring particulate matter emission to assure that the methods are not more stringent than the federal methods.

3745-17-01(B)(17), definition of “Process weight”

**Comment 2:** It has been noticed that many permits miss the restriction on the use of process weight included in 3745-17-11 of “all materials introduced into any single, specific process (at its maximum capacity) that may cause any emission of particulate matter.” It is assumed this restriction is missed since it is not in the definition as well. For consistency and clarification, we recommend revising the definition in 3745-17-01(B)(17) by adding the following at the end of the existing definition:

“For the purposes of applying process weight to rules in this chapter, process weight shall only include those materials that may cause any emission of particulate matter, if specified by the rule.”

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 2:** The proposed definition is already included in OAC rule 3745-17-11(A)(4). Adding qualifiers to the definition in paragraph (B)(17) could cause confusion and issues with other rules in the Chapter.

3745-17-01(B)(20), definition of “Salvageable material”

**Comment 3:** This definition is confusing, especially considering the examples provided in Engineering Guide (EG) #3. EG#3 provides an example of burning off oil inside used oil drums to re-use the drum, whereas the drums are the salvageable material. In this example the oil is reduced in volume (eliminated) and changed physically and chemically (turned to ash) and the drums do not undergo any changes in their original properties (no reduction in volume or changes in chemical/physical properties). Therefore, the existing definition (as shown below) of salvageable material is not accurate in the way it is used to represent the drums. We recommend the below definition for salvageable material. With the existing definition of refuse in 3745-17-01(B)(19), the recommended definition of salvageable material would accurately represent the “drums” from the example and the existing definition of refuse would accurately represent the “oil” in the example.

Existing definition: "Salvageable material" means any material which is to be reduced in volume, or otherwise changed in chemical or physical properties, in order to facilitate its reuse.

Recommended new definition: “Salvageable material”: Equipment, parts, or material intended for re-use or restoration that contain undesired matter (i.e. coatings, adhesives, or coverings), in which the removal of the undesired matter is necessary in order to facilitate its re-use or restoration.

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 3:** Ohio EPA has revised the definition as follows:

"Salvageable material" means any equipment, parts, or material intended for re-use or restoration that contain undesired material (i.e. coatings, adhesives, or coverings), in which the removal of the undesired material is necessary in order to facilitate its re-use or restoration.

3745-17-01(B)(22), definition of "Stack"

**Comment 4:** There are several times that stacks emit directly inside a building. But since the building has opening to the ambient air, the stack is considered exhausting to the ambient air eventually. In order to eliminate this confusion when applying the rules in 3745-17-07(A) to inside venting stacks, revise the definition in 3745-17-01(B)(22) of "stack" per the following:

"Stack" means any chimney, flue, conduit or duct, including the outlet of any air pollution control equipment, which is arranged to ~~conduct~~ convey emissions directly to the ambient air."

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 4:** Ohio EPA believes the proposed revision could cause confusion and possible alternative interpretations. For example, if changed in accordance with the commenters suggestion, a creative interpretation could be that a duct that is not straight does not convey directly to the atmosphere or when a vent that releases emissions over plant property, for example with ambient air 100 meters away, is not conveying directly to ambient air. Ohio EPA believes the existing language is appropriate as currently written.

3745-17-01(B)(29), definition of "uncontrolled mass rate of emission"

**Comment 5:** Is it the intention to include particulate emissions from gaseous fuels within the uncontrolled mass rate of emission? Gaseous fuels are excluded from process weight, so the definition of uncontrolled mass rate of emission appears to be inconsistent with the process weight definition. Canton LAA recommends revisions to the definition of "uncontrolled mass rate of emission" if the intention is to exclude gaseous fuels emissions.  
**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 5:** Yes, it is the intention to include particulate emissions from gaseous (and liquid) fuels within the uncontrolled mass rate of emission. Gaseous and liquid fuels are excluded from process weight rate based emissions limits

because the emissions rate per mass rate of fuel used is relatively low. Including the large mass rate of liquid and gaseous fuel usage into the process weight rate would increase the process weight rate significantly while the particulate emission rate is relatively low. For the uncontrolled mass rate of emissions, the “high” mass usage rate of gaseous and liquid fuels is not included by default because usage rates (i.e., inputs) are not considered at all for the uncontrolled mass rate of emissions (i.e., outputs). The particulate emissions from liquid and gaseous fuels are relatively low thus excluding these emissions is not necessary.

3745-17-01, “Definitions”

**Comment 6:** Add new definition for “incineration capacity” to add clarification to the intention of the use of the word in 3745-17-09(B).

- a. If the intention of “incineration capacity” is to only include those materials that are burned, the following is the recommended new definition:

“Incineration capacity” means the total weight of all refuse materials introduced into the incinerator, excluding salvageable material, excluding solid fuels, gaseous fuels and liquid fuels when they are used solely as fuels, and excluding air introduced for the purpose of combustion.

- b. If the intention of “incineration capacity” is to include all materials charged, including those that are and are not burned, the following is the recommended new definition:

“Incineration capacity” means the total weight of all materials introduced into the incinerator, including refuse and salvageable material, and excluding solid fuels, gaseous fuels and liquid fuels when they are used solely as fuels, and excluding air introduced for the purpose of combustion.

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 6:** Incineration capacity only includes the total weight of all materials incinerated. The requested clarification is no longer needed because the term “salvageable material” has been removed from OAC rule 3745-17-09(B), as noted in comment 25.

3745-17-01, “Definitions”

**Comment 7:** Add new definition for “matter” to add clarification to the intention of the refuse definition in 3745-17-01(B)(19). The following is the recommended new definition:

“Matter” means a substance which has mass and occupies physical space.

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 7:** The definition of matter is the same as that included in the dictionary. Therefore, the addition of this definition is not necessary.

3745-17-01, “Definitions”

**Comment 8:** Add new definition of “burn” to add clarification to the intention of the Incinerator definition in 3745-17-01(B)(9). The following is the recommended new definition:

“Burn” or “Burning” means to cause to undergo combustion, to destroy by fire, or to transform by exposure to heat or fire.

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 8:** The definition of burn or burning is the same as that included in the dictionary. Therefore, the addition of this definition is not necessary.

3745-17-01, “Definitions”

**Comment 9:** To support the recommended changes to 3745-17-07, 3745-17-08, and 3745-17-11 for residential wood heaters, the following are recommended new definitions need to be added to 3745-17-01:

“residential wood burning-appliances” means wood heaters, residential masonry heaters, residential hydronic heaters, residential force-air furnaces, fireplace, and central heaters as defined in sections 60.531 and 60.5473 of 40 CFR Part 60.

“Pellet stove” means pellet stove burning pellet fuel both as defined in section 60.531 of 40 CFR Part 60.

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 9:** Ohio EPA has added the requested definitions as defined in the federal regulations instead of referencing the federal regulations. The terms chip

wood, fireplace, pellet fuel, pellet stove, residential masonry heater and wood heater were obtained from 40 CFR 60.531 (New Source Performance Standards (NSPS) Subpart AAA for New Residential Wood Heaters). The terms central heater, chip wood fuel, pellet fuel, residential forced-air furnace, residential hydronic heater, and residential masonry heater were obtained from 40 CFR 60.5473 (NSPS Subpart QQQQ for New Residential Hydronic Heaters and Forced Air Furnaces). The term “residential wood burning appliances” was also added as requested by the commenter. These definitions were added to the rule are as follows:

“Central heater” means a fuel-burning device designed to burn wood or wood pellet fuel that warms spaces other than the space where the device is located, by the distribution of air heated by the furnace through ducts or liquid heated in the device and distributed typically through pipes. Unless otherwise specified, these devices include, but are not limited to, residential forced-air furnaces (small and large) and residential hydronic heaters.

“Chip wood fuel” means wood chipped into small pieces that are uniform in size, shape, moisture, density and energy content.

“Fireplace” means a wood-burning appliance intended to be used primarily for aesthetic enjoyment and not as a space heater. An appliance is a fireplace if it is in a model line that satisfies one of the following:

- (1) The model line includes a safety listing under recognized American or Canadian safety standards, as documented by a permanent label from a nationally recognized certification body affixed on each unit sold, and that said safety listing only allows operation of the fireplace with doors fully open. Operation with any required safety screen satisfies this requirement.
- (2) The model line has a safety listing that allows operation with doors closed, has no user-operated controls other than flue or outside air dampers that can only be adjusted to either a fully closed or fully opened position, and either of the following are satisfied:
  - (i) Appliances are sold with tempered glass panel doors only (either as standard or optional equipment), or
  - (ii) The fire viewing area is equal to or greater than 500 square inches.
- (3) A model line that is clearly positioned in the marketplace as intended to be used primarily for aesthetic enjoyment and not as a room heater, as demonstrated by product literature (including owner's manuals), advertising targeted at the trade or public

(including web-based promotional materials) or training materials is presumptively a fireplace model line.

The presumption in this paragraph of this definition can be rebutted by test data from an EPA-approved test laboratory reviewed by an EPA-approved third-party certifier that were generated when operating the appliance with the doors closed, and that demonstrate an average stack gas carbon dioxide (CO<sub>2</sub>) concentration over the duration of the test run equal to or less than 5.00 percent and a ratio of the average stack gas CO<sub>2</sub> to the average stack gas carbon monoxide (CO) equal to or greater than 15:1. The stack gas average CO<sub>2</sub> and CO concentrations for the test run shall be determined in accordance with the requirements in CSA B415.1-10, clause 6.3, using a sampling interval no greater than 1 minute. The average stack gas CO<sub>2</sub> and CO concentrations for purposes of this determination shall be the average of the stack gas concentrations from all sampling intervals over the full test run.

“Pellet fuel” means refined and densified fuel shaped into small pellets or briquettes that are uniform in size, shape, moisture, density and energy content.

“Pellet stove” (sometimes called pellet heater or pellet space heater) means an enclosed, pellet or chip fuel-burning device capable of and intended for residential space heating or space heating and domestic water heating. Pellet stoves include a fuel storage hopper or bin and a fuel feed system. Pellet stoves include, but are not limited to the following:

- (1) Free-standing pellet stoves—pellet stoves that are installed on legs or on a pedestal or other supporting base. These stoves generally are safety listed under ASTM E1509, UL-1482, ULC S627 or ULC-ORD C1482.
- (2) Pellet stove fireplace inserts—pellet stoves intended to be installed in masonry fireplace cavities or in other enclosures. These stoves generally are safety listed under ASTM E1509, UL-1482, ULC-S628 or ULC-ORD C1482.
- (3) Built-in pellet stoves—pellet stoves intended to be recessed into the wall. These stoves generally are safety listed under ASTM E1509, UL-127, ULC-S610 or ULC-ORD C1482.

“Residential forced-air furnace” means a fuel burning device designed to burn wood or wood pellet fuel that warms spaces other than the space where the furnace is located, by the distribution of air heated by the furnace through ducts.

“Residential hydronic heater” means a fuel burning device designed to burn wood or wood pellet fuel for the purpose of heating building space and/or water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a water and antifreeze mixture.

“Residential masonry heater” means a factory-built or site-built wood-burning device in which the heat from intermittent fires burned rapidly in the firebox is stored in the refractory mass for slow release to building spaces. Masonry heaters are site-built (using local materials or a combination of local materials and manufactured components) or site-assembled (using factory-built components), solid fuel-burning heating appliances constructed mainly of refractory materials (e.g., masonry materials or soapstone). They typically have an interior construction consisting of a firebox and heat exchange channels built from refractory components, through which flue gases are routed. ASTM E1602 provides design and construction information for the range of masonry heaters most commonly built in the United States. The site-assembled models are generally listed to UL-1482.

“Residential wood burning appliances” means wood heaters, residential masonry heaters, residential hydronic heaters, residential forced-air furnaces, fireplace, and central heaters that are designed to burn wood, chip wood or pellet fuel.

“Wood heater” means an enclosed, wood burning-appliance capable of and intended for residential space heating or space heating and domestic water heating. These devices include, but are not limited to, adjustable burn rate wood heaters, single burn rate wood heaters, pellet stoves, hydronic heaters and forced-air furnaces. Wood heaters may or may not include air ducts to deliver some portion of the heat produced to areas other than the space where the wood heater is located. Wood heaters include, but are not limited to the following:

- (1) Free-standing wood heaters—Wood heaters that are installed on legs, on a pedestal or suspended from the ceiling. These products generally are safety listed under UL-1482, UL-737 or ULC-S627.
- (2) Fireplace insert wood heaters—Wood heaters intended to be installed in masonry fireplace cavities or in other enclosures. These appliances generally are safety listed under UL-1482, UL-737 or ULC-S628.
- (3) Built-in wood heaters—Wood heaters that are intended to be recessed into the wall. These appliances generally are safety listed under UL-1482, UL-737, UL-127 or ULC-S610.

Ohio EPA has also added the following availability of referenced materials to OAC rule 3745-17-01(C)(1): UL, ULC and CSA

Ohio EPA has also added the following referenced materials to OAC rule 3745-17-01(C)(2): ASTM E1509, ASTM E1602, CSA B415.1-10, UL-127, UL-1482, UL-737, ULC-S610, ULC S627, ULC-S628, and ULC-ORD C1482.

3745-17-03, "Measurement methods and procedures"

3745-17-03(B)(1)(a), 3745-17-03(B)(2)(d), 3745-17-03(B)(3), 3745-17-03(B)(3)(d), 3745-17-03(B)(5), 3745-17-03(D) and 3745-17-03(E)

**Comment 10:** DAPC has presented four substantive amendments to OAC 3745-17-03. First, DAPC has proposed to amend the permissible means of determining compliance with the opacity requirements in various regulations to include "[any] other USEPA approved alternate opacity determination method." Second, for air contaminant sources subject to 40 CFR Part 51, Appendix P, DAPC has proposed to amend the default means for measuring opacity from a continuous emission monitoring system (CEMS) to a continuous opacity monitoring system (COMS). Third, for the same group of air contaminant sources, "where the use of a COMS would not provide accurate determination of opacity as described in Section 6.1 of 40 CFR part 51, appendix P," DAPC would allow the use of a CEMS instead, "[u]pon approval \*\*\* by the director and the administrator" and dependent on compliance with certain other installation, operation, and maintenance requirements. Alternatively, DAPC would allow such sources to comply with an alternative monitoring plan, "[u]pon approval \*\*\* by the director and the administrator" and if certain other testing, operation, and monitoring requirements are met. Our concerns lie with the first, third, and fourth draft amendments.

With regard to the draft amendment to OAC 3745-17-03(B)(1)(a) (and the other, similar draft amendments throughout OAC 3745-17-03), DAPC should modify the amendments to make clear that it will be up to the owner/operator – not Ohio EPA – to choose among the permissible means for determining visible particulate emissions. For example, Ohio EPA should not be permitted to overrule an owner/operator's Method 9 reading by choosing an alternate compliance determination method under which the source's visible emissions exceed permissible limits.

Our next recommendation is to simplify the amendments to OAC 3745-17-03 by merely deleting any SIP requirement for opacity monitoring derived from 40 CFR Part 51, Appendix P for units that are subject to either 40 CFR Part 63, Subpart UUUUU (the Mercury and Air Toxics Standards, or "MATS" rule) or any other federally enforceable requirement to operate

PM CEMS. Such sources have much lower actual and allowable PM emissions than the SIP PM emission limit of 0.1 lb/MMBtu and are equipped with flue gas desulfurization controls that make opacity monitoring unrepresentative of emissions to the atmosphere, unreliable, and unnecessary. There is no reason to impose the 1970s-vintage Appendix P opacity monitoring requirements at sources that have 21st-century controls and PM CEMS.

If Ohio EPA does not simplify the opacity monitoring requirements for those sources with FGD and PM CEMS as we recommend, DAPC should at the very least make the changes described below.

With regard to the new draft OAC 3745-17-03(D), we oppose DAPC's inclusion of a new 0.030 lbs/mmBTU (daily average) particulate emissions limit for sources that elect to install a PM CEMS. This new draft limit has no apparent or rational connection to any existing particulate emission limit in OAC Chapter 3745-17. Again, because adding this limit would increase the stringency of existing SIP compliance obligations in OAC Chapter 3745-17, DAPC would need to analyze and justify that amendment under section 110 of the CAA and R.C. 3704.03(E). DAPC has presented no such analysis or justification to the public. We also oppose DAPC's suggested requirement that owners/operators that install a PM CEMS also perform weekly or monthly Method 9 visible emissions readings. Under DAPC's proposed amendment, the owner/operator of the PM CEMS would already be required to perform quarterly accuracy determinations, daily calibration drift tests, annual relative response audits, and triennial response correlation audits. Imposing an additional quality assurance requirement, in the form of periodic Method 9 visible emissions readings would be unduly burdensome. Accordingly, we would recommend DAPC omit the 0.030 lb/mmBTU limit from subparagraph (2) and all of subparagraphs (3) – (4) from draft OAC 3745-17-03(D).

With regard to the new draft OAC 3745-17-03(E), we oppose the language in subparagraph (3) that would treat operation of an air contaminant source outside the federally enforceable parameter ranges as "excess emission[s]" in "violation of the applicable particulate emissions limit." The alternative monitoring plan described in draft OAC 3745-17-03(E) is similar to the Compliance Assurance Monitoring (CAM) plans described in 40 CFR Part 64. But under Part 64, "a departure from an indicator range established for monitoring" is an excursion (40 CFR §64.1), not an exceedance, and requires only that the owner/operator return the "emissions unit (including the control device and associated capture system) to its normal or usual manner of operation as expeditiously as practicable in accordance with good air pollution control practices for minimizing emissions" (40 CFR §64.7(d)(1)). If DAPC retains draft OAC 3745-17-03(E), we would recommend the following changes to subparagraph (3):

- Omit the words “is considered a violation of the applicable particulate emissions limit, and”.
- Change the phrase “quarterly excess emission reports” to “alternative monitoring reports.”
- Instead of requiring the reports to satisfy 40 CFR 60.7, they should be required to satisfy 40 CFR §64.9(a)(2)(i) and (ii).

**(Eric B. Gallon and Robert L. Brubaker, Porter, Wright, Morris and Arthur LLP, on behalf of numerous and diverse companies)**

**Response 10:** Regarding the comment on to amend the permissible means of determining compliance with the opacity requirements in various regulations to include “or a USEPA approved alternate opacity determination method.”, Ohio EPA has removed this proposed revision to OAC rules 3745-17-03(B)(2)(d), 3745-17-03(B)(3), 3745-17-03(B)(3)(d) and 3745-17-03(B)(5). Ohio EPA revised OAC rule 3745-17-03(B)(1)(a) to state the following:

Except as provided in paragraph (B)(1)(b) of this rule, USEPA method 9 or continuous opacity monitoring as specified in paragraph (C) shall be employed.

This was the intent of the original proposed revision.

Ohio EPA cannot simply delete the requirements of OAC rule 3745-17-03(C) because other federal rules are applicable to the source. This rule establishes compliance monitoring requirements for certain large facilities to show compliance with Ohio opacity regulations developed to attain and maintain particulate matter standards as a part of Ohio’s State Implementation Plan (SIP), not federal rules established for other purposes.

Regarding the 0.030 lbs/mmBTU particulate emissions limit for sources that elect to install a PM CEMS, this emissions limit provides additional compliance options for sources subject to OAC rule 3745-17-03(C). This additional compliance option is the same compliance option as included 40 CFR 60.42, which also requires facilities to comply with the same 0.030 lbs/mmBTU particulate emissions limit. Therefore, this is not a new emissions limit for facilities opting to comply with this rule. U.S. EPA has expressed that this emissions limit needs to be included in Ohio’s rules in order to obtain an approvable additional compliance option as a part of the SIP. In addition, Section 110 of the Clean Air Act and R.C. 3704.03(E) does not need to be addressed for an alternative emissions limit. Any

facility can choose to continue to comply with the original SIP requirements.

As requested by the commenter, Ohio EPA has removed OAC rule 3745-17-03(D)(4), which included the requirement to perform routine U.S. EPA Method 9 visible emission readings as part of this alternative. However, it is important to note that OAC rule 3745-17-03(D) cannot exempt facilities from complying with the visible emissions standards included in OAC rule 3745-17-07. U.S. EPA has stated that any alternative that exempts a source from the opacity limits in OAC rule 3745-17-07(A) would not be approvable as a part of Ohio's SIP. Per OAC rule 3745-17-03(B)(1), U.S. EPA Method 9 or COMs are the compliance methods for the visible emissions limitations in OAC rule 3745-17-07. Although Ohio EPA is not requiring routine Method 9 readings because the facility will be complying with the proposed CEMS and PM emissions limitations established in this paragraph, if a Method 9 reading were to occur in the future it would continue to be a method of compliance determination.

Regarding the comment and three recommendations for OAC rule 3745-17-03(E), OAC rule 3745-17-03(E) is specifically based on an alternative granted by U.S. EPA to an Ohio petroleum refinery fluidized bed catalytic cracking unit subject 40 CFR 60 Subpart J and 40 CFR 63 Subpart UUU. The specific exemptions are 40 CFR 60.13(i)(1) and 40 CFR 63.1573(g). The conditions are identical to those specified and required by U.S. EPA in their granting of this alternative from Ohio's SIP requirements and U.S. EPA indicated if a site specific SIP revision were to be approved the requirements in the rule would be required to be consistent with the requirements imposed by U.S. EPA in granting the alternative. In anticipation that there may be other facilities that may want to take advantage of such an alternative to an Ohio SIP requirement, Ohio EPA incorporated this alternative language as written rather than as a site specific alternative. In order to incorporate this as a non-site specific SIP alternative, U.S. EPA will require any alternate monitoring plan must be approved by the U.S. EPA. Absent SIP approval, this alternate will not be possible for facilities other than the one already granted an alternative by U.S. EPA. Further consultations with U.S. EPA indicated that the proposed revisions are consistent with other regulations as well.

**Comment 11:**

For some years, the Utilities have proposed that Ohio EPA revise the particulate SIP and remove the requirement to install COMs, as listed in OAC 3745-17-03(C)(1). As stated in our May 21, 2012 comments on the same rule, the installation of scrubbers on most, if not all, coal-fired EGUs makes the installation, certification, and operation of COMs nearly impossible. Further, what COMs can be installed and certified offer little if any useful data as to actual particulate emissions, as almost all of them have a scrubber installed and operating behind the COM. Consequently, the Utilities are generally pleased to see Ohio EPA attempt to address this

issue with its proposal. However, the Utilities have significant concerns with aspects of revisions presented in this current draft.

OAC 3745-17-03(D) and (E) both propose to allow EGUs to cease operating COMs if they either install and use a PM CEM (D) or establish some other parametric standard for measuring PM emissions (E). The overall concept of replacing COMs with either option is a very good starting point; however, there are drawbacks to the specific proposals. For one, Ohio EPA has not addressed the issue of measurements or readings during start up or shut down. The current opacity rules allow for exceedances during start-up and shutdown and the alternatives must do so, too. PM CEMs are not calibrated to measure accurately during such times and it is difficult to imagine any parametric monitoring protocol that would accurately measure PM emissions either. Both (D) and (E) need revised to specifically state that the monitoring of PM will not include start-up or shutdown.

A second problem is the proposal to measure PM emissions on a daily average. This is unacceptable. The current Ohio SIP states that the emission limit for PM emissions from fuel burning equipment, OAC 3745-17-10 Appendix Figure 1, is 0.1 lbs/mmBtu. Ohio EPA's proposal requires a unit to monitor its emission at a level of 0.03 lbs/mmBtu. That is a significant increase in the stringency of the unit's operation. To then further increase the stringency by measuring the limit on a daily average is unsupported. Ohio EPA should only require a 30-day average consistent with other rules.

Opacity readings have always served as a loose, uncorrelated indicator for actual PM emissions. Under federal case law, opacity exceedances of the limits in the Ohio SIP cannot be enforced without a corresponding demonstration of a PM exceedance. Instead, opacity readings from COMs have legally only served in Ohio as a basis for further investigation of PM emissions which, before the installation of PM CEMS, consisted of a Method 5 stack test. In Ohio, PM emissions have always been measured by, and only by, the occasional stack test. The installation of PM CEMS for direct compliance with PM emission limits will radically change the state's ability to enforce PM emission limits. Isn't that enough?

The Ohio SIP will potentially transform from monitoring opacity (which has no NAAQS or any relationship to any health effect) directly and PM emissions periodically to measuring PM emissions (the pollutant with a NAAQS) directly. Further, the proposal will lower the threshold of monitoring from 0.1 lbs/mmBtu to 0.03 lbs/mmBtu. Increasing stringency to a daily average is unnecessary and not supported by any technical basis. Using a 30-day average is more than adequate to protect the NAAQS.

Also, once a source starts directly monitoring compliance with its PM emission limits, there is no basis to continue to monitor opacity. Opacity on its own has no impact on human health and the environment. Its only use (if any) is an indicator of PM emissions. If PM emissions are directly measured even that possible application of opacity readings is meaningless.

Further, under Ohio law, opacity exceedances are meaningless if the source is in compliance with its PM limits. Ohio EPA is required by law to grant an equivalent opacity limit to any source in compliance with its PM limit. There is no value to anyone measuring opacity while directly monitoring PM. If a source exceeds its opacity limits while in compliance with its PM limits, there is no violation of the law and the source is entitled to an EVEL. If the source directly monitors a violation of its PM emissions, then it does not matter what the source's opacity readings are. The source is out of compliance with its PM limit and that must be addressed regardless of opacity. Measuring opacity under these circumstances is simply a waste of everyone's time and effort.

Finally, the Utilities are concerned by the specific approach proposed by Ohio EPA in (E) to use parametric monitoring for direct compliance with the PM limit. The concept of using PM CEMs for direct compliance with the PM limit in lieu of monitoring a surrogate (opacity) is generally acceptable as an alternate to COMs (subject to the comments above). However, there is no basis for using parametric indicators for direct compliance.

All parties agree that COMs no longer provide useful data related to actual emissions from a scrubbed unit. Ohio EPA should provide a monitoring alternative to COMs for such units that do not install a COM, but that alternate cannot be used for direct compliance with PM limits any more than COMs. The alternate parametric monitoring should allow a unit to cease COM operation but that monitoring must be used, like opacity, as an indicator of PM emissions, not a measure of direct compliance.

Such an approach would be technically justified as it would allow an alternative to the now useless COM data without changing PM emission compliance. Ohio EPA's proposed approach is unacceptable as an alternate to COMs as it substitutes one indicator for another, but bootstraps the new indicator as a direct compliance method. There is no basis for such an approach.

In addition to these broader concerns, the Utilities have additional, more specific comments on the language as proposed. These are:

- 17-03(D)(1)(b): oxygen **or** carbon dioxide data should be collected for both the CEMS and the reference method. Not **and**.

- 17-03(D)(2): Should be revised to "...source that is equipped with a CEMS for particulate emissions in lieu of using COMS shall comply with a particulate emissions limit of 0.030 pounds..."
- 17-03(D)(3): Should read "... shall be determined by calculating the arithmetic average of all valid CEMS hourly emission rates..."

The Utilities appreciate Ohio EPA's initial effort to revise the SIP and provide reasonable alternatives to continued use of COMs to measure opacity. The revisions described above will make the proposal reasonable for the regulated community while still increasing the stringency of Ohio's current particulate SIP by allowing for the direct monitoring of PM emissions in lieu of the inaccurate and unreliable surrogate opacity. The goals of both the regulator and the regulated can be met this way.

**(Michael E. Born, Shumaker, Loop and Kendrick LLP, on behalf of the Environmental Committee of the Ohio Utility Group and AEP Generation Resources Inc., Buckeye Power, Inc., The Dayton Power and Light Company, Duke Energy Ohio, Dynegy Commercial Asset Management, LLC, FirstEnergy Solutions Corp. and Ohio Valley Electric Corporation)**

**Response 11:**

OAC rules 3745-17-10 and 3745-17-11, which regulate particulate emissions, do not exempt start-up and shutdown. Opacity rules currently exempt start-up and shutdown conditions. However, Ohio EPA has currently started efforts to revise these start-up and shutdown provisions in response to U.S.EPA's SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction (80 FR 33840). In U.S. EPA's SIP Call, U.S. EPA has stated these exemptions are no longer acceptable and at this time Ohio EPA does not know if the current exemption will be appropriate in the future. Regardless, U.S. EPA has expressed they will not approve this alternative if Ohio includes provisions that exempt periods of start-up and shutdown. Ohio EPA believes it is imperative this alternative compliance option gets approved as soon as possible in order for facilities to use this much needed provision. Placing the alternative compliance option proposed in this rule at risk of disapproval would not be a desirable outcome. Pending the resolution of the SIP Call, Ohio EPA may revisit this provision at a later date if U.S. EPA indicates additional flexibility could be approved into the alternative.

Regarding the daily average emission limit, Ohio EPA consulted with U.S. EPA Region 5 regarding the SIP-approvability of a 30-day average emission limit. A key factor in the acceptability of this rule is that otherwise applicable mass limitations, in addition to the 0.030 lb PM/MMBTU limit of this rule, be enforceable with the data being obtained. Many of the sources that might be expected to take advantage of this rule

are subject to new source performance standards. Notably, those facilities which constructed or modified in the pertinent period between 1978 and 2005 are subject to a limit of 0.030 lb PM/MMBTU as a 24-hour average. Facilities that constructed or modified in the defined period between 2005 and 2011 are subject to somewhat tighter limits expressed as 24-hour averages, and facilities constructed or modified after the defined date in 2011 are subject to a 30-day average limit that is substantially tighter. The technology to meet these limits is not unique to new sources, so the achievement of 0.030 lb PM/MMBTU as a 24-hour average is a reasonable expectation of any source wishing to use PM CEMS in lieu of a continuous opacity monitoring system. In addition, use of the limit applicable to sources constructed or modified between 1978 and 2005, applying the same averaging time, would reduce the potential for confusion about applicable limits. In any case, if this limit is expressed as a 30-day average limit, the use of such a limit may not be acceptable or fully creditable under other circumstances.

Regarding the comments for Method 9 visible emission readings and OAC rule 3745-17-03(E), please refer to Ohio EPA's response 10 above.

Ohio EPA revised OAC rule 17-03(D)(1)(b) to state "...particulate emissions and oxygen or carbon dioxide data shall be collected..." In addition, Ohio EPA revised paragraph (D)(1)(b)(ii) to state "For oxygen or carbon dioxide, USEPA method 3A or 3B of 40 CFR part 60, appendix A, shall be used."

Ohio EPA revised paragraph (D)(2) to state "...source that is equipped with a CEMS for particulate emissions in lieu of using COMS shall comply with a particulate emissions limit of 0.030 pounds..."

Ohio EPA has revised paragraph (D)(3) to state "... shall be determined by calculating the arithmetic average of all valid CEMS hourly emission rates..."

#### 3745-17-04, "Compliance Time Schedules"

**Comment 12:** DAPC has not recommended any substantive amendments to OAC 3745-17-04. Nonetheless, we would recommend several amendments to the existing rule language, to clarify the rule's continuing application.

All of the compliance deadlines in OAC 3745-17-04 are in the past. That suggests that the regulation is a dead letter – i.e., that none of the regulations cited in this regulation apply to sources installed or modified after the specified deadlines. It follows that OAC 3745-17-04 can and should be rescinded, and DAPC should rewrite the regulations referenced in OAC 3745-17-04 to make clear that those regulations do not apply to sources installed or modified after the deadlines discussed therein. For

sources that were historically subject to the regulations referenced in OAC 3745-17-04 and that still have permits reflecting those regulations' requirements, DAPC might add a note that any such permit requirement not revoked or modified prior to the regulations' rescission would remain in effect unless and until it is revoked or modified for reasons unrelated to the rescission of regulations within OAC Chapter 3745-17. DAPC could also add a link to its on-line compilation of the regulations in OAC Chapter 3745-17, similar to the link at the bottom of its on-line compilation of the regulations in OAC Chapter 3745-31, directing interested parties to the historic versions of regulations in OAC Chapter 3745-17.

If, on the other hand, the requirements discussed in OAC 3745-17-04 – including OAC 3745-17-03(C)(1), OAC 3745-17-07(A) and (B), OAC 3745-17-08(B) and (D), OAC 3745-17-10, OAC 3745-17-11, OAC 3745-17-12, and OAC 3745-17-13 – have any continuing effect, then OAC 3745-17-04 must be extensively rewritten to make that clear. Alternatively, DAPC may wish to reconsider listing the compliance time schedules for OAC Chapter 3745-17's requirements in OAC 3745-17-04, and not in each substantive regulation. Separating the compliance time schedules from the substantive requirements to which they apply makes this Chapter needlessly complicated. **(Eric B. Gallon and Robert L. Brubaker, Porter, Wright, Morris and Arthur LLP, on behalf of numerous and diverse companies)**

**Response 12:** As part of the current review of these rules required under Ohio Revised Code (ORC) 106.03 (5-year review), Ohio EPA evaluated the need for the above mentioned dates and determined that it was still necessary to retain the language. This rule is a part of Ohio's SIP for attaining and maintaining the particulate matter national ambient air quality standard (NAAQS). While facilities are still operating that may have had to comply with these deadlines, Ohio EPA sees value in retaining the language in the rule. During future reviews, if Ohio EPA determines that all facilities that were required to comply with these deadlines have permanently shut down, and it is determined that no additional facilities which must comply will be found, then Ohio EPA may remove the language at that time.

#### 3745-17-07, "Control of Visible Particulate Emissions from Stationary Sources"

**Comment 13:** DAPC has not recommended any substantive amendments to OAC 3745-17-07 either. Nonetheless, we would again recommend DAPC amend the rule language to clarify the rule's continuing application.

As noted above, each of the compliance deadlines in OAC 3745-17-04 that relates to a control requirement in OAC 3745-17-07 lies in the past. Only a few of OAC 3745-17-07's requirements, such as the 20% opacity limit for visible particulate emissions from fugitive dust sources in 17-07(B)(1), lacks a compliance deadline in 17-04 and, for that reason, could

reasonably be assumed to be applicable to newly installed or modified sources. If most of OAC 3745-17-07 is inapplicable to newly installed or modified sources, it should be amended to make that clear. On the other hand, if the portions of OAC 3745-17-07 with historical compliance deadlines do, somehow, apply to newly installed or modified sources, then, again, DAPC must rewrite the compliance deadlines to make that clear. **(Eric B. Gallon and Robert L. Brubaker, Porter, Wright, Morris and Arthur LLP, on behalf of numerous and diverse companies)**

**Response 13:** The compliance deadlines listed in OAC rule 3745-17-04 were intended to provide time for existing facilities to comply with OAC rule 3745-17-07. New sources comply with OAC rule 3745-17-07 at start-up of the source. No revisions are necessary.

**Comment 14:** For 3745-17-07(B)(8), Facility specific VE limits: “The Timken Company” should be updated to “TimkenSteel Corporation” and “Republic Engineered Steels, Incorporated” should be updated to “Republic Steel”. **(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 14:** Paragraphs (B)(7) and (B)(8) were promulgated as part of a settlement negotiated between Ohio EPA and the specific appellants listed in these two paragraphs. For this reason, the names of these specific appellants cannot be revised.

**Comment 15:** For 3745-17-07(B)(8), Facility specific VE limits: Canton LAA recommends the addition of the facility premise number to clarify of which facilities these apply to. **(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 15:** Paragraphs (B)(7) and (B)(8) were promulgated as part of a settlement negotiated between Ohio EPA and the specific appellants listed in these two paragraphs. The rule applies to all facilities that are or were owned and operated by the specific companies listed.

**Comment 16:** There are residential wood fireplaces and residential outdoor wood boilers in operation that are not small enough to meet the de minimis exemption (per OAC 3745-15-05). These sources would be subject to the applicable requirements listed in Chapter 3745-17. However, it has been interpreted that the requirements listed in Chapter 3745-17 don't apply to these residential sources. This interpretation is not clear per the current rule language. Therefore, Canton LAA recommends the following exemption be added to the list under OAC 3745-17-07(A)(3) and OAC 3745-17-07(B)(11):

“residential wood burning-appliances and residential pellet stoves capable of and intended for residential space heating or space heating and domestic water heating, located either indoors or outdoors, burning only clean seasoned firewood or wood pellets.”

Note: If this is agreed to be added, then new definitions also need to be added as recommended elsewhere. **(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 16:** Ohio EPA added paragraph (k) the OAC rule 3745-17-07(A)(3), as follows:

(k) Residential wood burning appliances and pellet stoves.

3745-17-08, “Restriction of Emission of Fugitive Dust”

**Comment 17:** DAPC has presented two substantive draft amendments to OAC Chapter 3745-17-08. First, DAPC has proposed to revise OAC 3745-17-08(A) to make clear that compliance with the reasonably available control measures (RACM) requirements in OAC 3745-17-08(B) is required for any fugitive dust source in an area identified in appendix B “by August 7, 1972 or the date of initial startup of the source, whichever is later.” Second, DAPC has proposed adding language stating that, if the Director requires a source to install RACM because the Director believes it is causing or contributing to a nuisance, the Director may also require the source to apply for and obtain a Title V permit or PTI. Our concerns lie with the second amendment, but we would also propose amendments to the existing regulatory language.

The draft amendments to OAC 3745-17-08(A)(2) are ill-advised and should be omitted. Ohio EPA’s Director may not require a fugitive dust source to obtain a Title V permit or PTIO simply because the Director believes the source is causing or contributing to a nuisance in violation of rule 3745-15-07. Ohio law prohibits the director from requiring a source to obtain a Title V permit unless it is required by federal law. See R.C. 3704.036. Similarly, PTIOs apply only to new or modified sources. The PTIO requirements are statutory, and the PTIO statute and regulations make no sense as applied to existing, unmodified sources. See R.C. 3704.03(F)(1) (authorizing the Ohio EPA’s Director to adopt rules requiring an installation permit for the “location, installation, construction, or modification of any air contaminant source”); see also OAC 3745-31-02 (explaining that OAC Chapter 3745-31 “provides requirements for installation, modification and operation of new and existing air contaminant sources at facilities that are not subject to Chapter 3745-77”). But DAPC also cannot require an owner/operator to simply submit and implement a RACM program. ERAC and Ohio’s Tenth District Court of Appeals agree that RACM requirements are not enforceable unless they are incorporated

into a permit. See *Columbus Steel Castings Co. v. Jones*, Case No. ERAC 255266, Decision, ¶¶ 60-61 (Sept. 29, 2011); *Columbus Steel Castings Co. v. Nally*, 10th Dist. No. 11AP-932, 2012-Ohio-4417, ¶¶ 38-39. For that matter, ERAC and the Tenth District also held that the Director cannot require a source with a Title V permit to incorporate new, substantive RACM requirements directly into the federally enforceable section of that permit.

But we would recommend that DAPC delete OAC 3745-17-08(A)(2) regardless. The mixing of RACM and nuisance is improvident. RACM is a NAAQS-related requirement, whereas nuisance remedies are tailored to specific facts and circumstances. Additionally, it makes no sense to permit nuisances. The permitting system is not designed to address nuisances.

If DAPC chooses to retain that subparagraph, however, the reference to OAC 3745-17-02 should be deleted, as OAC 3745-17-02 no longer exists. Moreover, DAPC should amend the regulation to make clear that a Director's finding that a fugitive source in a non-Appendix A area is a nuisance may justify a requirement to install RACM only if the nuisance is related to the source's fugitive dust emissions (and not, for example, odor). **(Eric B. Gallon and Robert L. Brubaker, Porter, Wright, Morris and Arthur LLP, on behalf of numerous and diverse companies)**

**Response 17:** The intent of the revision is to replace the reference to the rescinded OAC rule 3745-35-02 for operating permits with OAC rules 3745-31 and 3745-77, which are then current regulation for operating permits. This rule will not require a source to submit a Title V permit application if it is not a Title V source. In addition, PTIOs apply to existing sources as well, see OAC rule 3745-31-02(A)(1).

Ohio EPA has removed the reference to OAC rule 3745-17-02.

**Comment 18:** In paragraph (C)(3), the RACM reference to paragraph (B)(17) of 3745-17-01 should be (B)(18). **(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 18:** Ohio EPA has revised the paragraph reference.

**Comment 19:** Paragraph (A)(2) refers to rescinded rule 3745-17-02, which should be removed. **(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 19:** Ohio EPA has removed the paragraph reference.

**Comment 20:** To clarify that the requirements in OAC 3745-17-08 don't apply to de minimis sources (for the sake of the general public), Canton LAA

recommends the following exemption be added to the list under OAC 3745-17-08(A)(3):

“Any fugitive dust source that has been determined to meet the exemption specified in 3745-15-05 of the Administrative Code.”

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 20:** Ohio EPA believes repeating the de minimis exemption in this rule adds clutter and potential confusion to this and other rules.

**Comment 21:** There are residential wood heaters and residential outdoor wood boilers in operation that are not small enough to meet the de minimis exemption (per OAC 3745-15-05). These sources would be subject to the applicable requirements listed in Chapter 3745-17. However, it has been interpreted that the requirements listed in Chapter 3745-17 don't apply to these residential sources. This interpretation is unclear how the rules are currently written. Therefore, Canton LAA recommends the following exemption be added to the list under OAC 3745-17-08(A)(3):

“Fugitive dust generated from residential wood burning-appliances and residential pellet stoves capable of and intended for residential space heating or space heating and domestic water heating, located either indoors or outdoors, burning only clean seasoned firewood or wood pellets.”

Note: If this is agreed to be added, then new definitions also need to be added as recommended elsewhere. **(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 21:** Ohio EPA added paragraph (f) the OAC rule 3745-17-08(A)(3), as follows:

(f) Fugitive dust generated from residential wood burning appliances and pellet stoves.

**Comment 22:** Appendix A specifies cities and townships that are subject to the requirements in OAC 3745-17-08. There is a lot of ambiguity as to how these areas are intended to be interpreted and applied. Townships normally consist of larger areas than cities, so it is possible to have a city that is not listed in Appendix A that is located within a township that is listed in Appendix A. Recent discussions have clarified that the interpretation of the area boundaries are based on the political jurisdiction boundaries as they exist in the present day. So that this is made clear in the rule, Canton LAA requests the following revision to Appendix A:

“DESCRIPTION OF AREA(S) [Based on the political jurisdiction boundaries in accordance with ORC 503.07]”

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 22:** The boundaries of the areas are as they existed at the time Appendix A was promulgated. Ohio EPA has added Figures A-1 to A-33 that graphically show those boundaries.

**Comment 23:** As far as Canton LAA is aware, Appendix A for Stark County has never been updated since the original rule version was adopted in 1972. The Canton LAA is not knowledgeable of what criteria was used to establish these areas listed in Appendix A (population, square foot area, etc).

- a. Based on Canton LAAs knowledge of how the political jurisdiction boundaries have changed over time, Canton LAA has the following revisions to the areas listed for Stark County in Appendix A:
  - i. Add City of Massillon. Reason: Portions of the City of Massillon are within the Perry Township area, which is already listed in Appendix A. The area has since been annexed by the city.
  - ii. Add City of North Canton. Reason: The City of North Canton is entirely within the Plain Township area, which is already listed in Appendix A. The area has since been annexed by the city.
  - iii. Rename “City of Meyers Lake” to “Village of Meyers Lake”
- b. Based on Canton LAAs knowledge of fugitive dust sources and population density of the existing areas listed in Appendix A, the following areas should be added since they are similar:
  - i. Add City of Alliance
  - ii. Add Village of Hartville
  - iii. Add Jackson township
  - iv. Add Lake township
- c. Canton LAA requests that the criteria of what makes an area an Appendix A area be provided so additional changes to the list of areas for Stark County can be made.

- c. Alternatively, based on the ease of interpreting and applying the rules, and due to Canton LAA's past history of PM<sub>2.5</sub> non-attainment status, Canton would like to recommend the "entire county" of Stark county be specified as an Appendix A area.

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 23:** The areas included in Appendix A are based on air dispersion modeling performed for the SIP for the 1971 total suspended particulates (TSP) NAAQS. Specifically, an air quality analysis was performed for counties in Ohio to evaluate the current SIP and to determine whether additional control measures would be necessary to assure attainment of the TSP NAAQS by 1982. The results of this analysis indicated that the areas listed in Appendix A required additional controls to attain the 1971 TSP NAAQS.

While city/township borders may have changed over the years, the areas included in Appendix A have not. As noted in the previous comment response, Figures A-1 to A-36 have been added to graphically show the boundaries. The proposed Figure A-32 includes the Appendix A area for Stark County. Ohio EPA cannot revise Appendix A areas to include Massillon and North Canton.

Ohio EPA has revised "City of Meyers Lake" to "Village of Meyers Lake" as the commenter suggested.

Per ORC 3704.03(E), Ohio EPA can only adopt and modify rules prescribing fugitive dust limitations and standards that are related, on an area-wide basis, to attainment and maintenance of ambient air quality standards. Since Stark county is currently in attainment of the latest particulate matter NAAQS for PM<sub>2.5</sub>, Ohio EPA cannot add additional areas of Stark county to Appendix A.

**Comment 24:** Thank you for the opportunity to review and comment on the referenced rules. With regard to the proposed changes to the particulate rules (June 7, 2016), Ohio EPA is proposing to remove the many rules that pertain to the Cleveland Casting Plant (3745-17-12 and related provisions in 17-04, 17-07 & 17-08) as the facility no longer exists. Ford is in agreement with the proposed changes, however, it appears that the Ohio EPA has not proposed to also remove Appendix B of OAC 3745-17-08. This is probably just an unintended oversight and we are asking that Appendix B be removed in its entirety as those provisions were there to address the ongoing material handling and road usage by the Cleveland Casting Plant when it was in operation and now this appendix is no longer necessary or appropriate. **(John Lauch, Ford Environmental Quality Office)**

**Response 24:** Ohio EPA appreciates the commenter's support in our rule making changes. Ohio EPA has rescinded Appendix B as suggested by the commenter.

3745-17-09, "Restrictions on particulate emissions and odors from incinerators"

**Comment 25:** There has always been a lot of confusion when applying the limits in OAC 3745-17-09 to burn-off ovens. In combination with the recommended definition changes in 3745-17-01 specified above, Canton LAA recommends the following changes to the language in OAC 3745-17-09(B)(1) & (2)

(1) 0.10 pound per one hundred pounds of liquid, semi-solid or solid refuse ~~and salvageable material~~ charged, for incinerators having incineration capacities equal to or greater than one hundred pounds per hour; or

(2) 0.20 pound per one hundred pounds of liquid, semisolid or solid refuse ~~and salvageable material~~ charged for incinerators having incineration capacities less than one hundred pounds per hour.

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 25:** Ohio EPA has removed the term "salvageable material" as the commenter suggested.

**Comment 26:** Canton LAA also recommends having separate emission limits specifically for crematoriums, burn-off ovens, and waste incinerators, in lieu of the current one limit for all these types of sources, which would eliminate confusion and add consistency. This would be consistent with the Federal Rules for incinerators (reference 40 CFR Part 60 subpart DDDD & EEEE).

Note: If this recommendation is considered, each of these different sources would need to be defined in 3745-17-01.

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 26:** Per ORC 3704.03(E), Ohio EPA can only adopt and modify rules to attain or maintain ambient air quality standards. Modification of the rule is not necessary to maintain attainment for areas in attainment of the PM2.5 NAAQS or achieve attainment for areas that are in nonattainment of the PM2.5 NAAQS.

3745-17-10, "Restrictions on particulate emissions from fuel burning equipment"

**Comment 27:** Ohio EPA is proposing to remove the particulate limits (3745-17-10) established for the coal-fired boilers that used to exist at our Lorain and Lima facilities. We are in agreement with these changes. **(John Lauch, Ford Environmental Quality Office)**

**Response 27:** Ohio EPA appreciates the commenter's support in our rule making changes.

3745-17-11, "Restrictions on particulate emissions from industrial processes"

**Comment 28:** OAC rule 3745-17-11(A)(2)(a)(ii) provides an exemption from the applicability of Figure II if the uncontrolled mass rate of emission (U) is less than 10 lb/hr. There is no provision for a minimum allowable emission rate (E) like there is for Table 1, which provides  $E = 0.551 \text{ lb/hr}$  for  $0 < (P) \leq 0.05$ . This minimum E value is based on the 0.05 ton/hr process weight rate (P) minimum. To be consistent with the format of Table 1, Canton LAA recommends the following revisions:

- a. Place the following statement below the Figure II in the Appendix to 3745-17-11:  
 $\text{For } 0 < (U) \leq 10, A = 2.0 \text{ lbs/hr}$
- b. Delete the term in 3745-17-11(A)(2)(a)(ii) which states "Any source with an uncontrolled mass rate of emission of less than ten pounds per hour"

Note: The above recommendations are more critical due to the current Best Available Technology (BAT) policies.

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 28:** These requested revisions comment would make the rule applicable to sources with an uncontrolled mass rate of emissions less than 10 pounds per hour, which are currently exempt. Ohio EPA cannot make the rule more stringent and thus cannot make this requested revision.

**Comment 29:** OAC rule 3745-17-11(A)(1)(f) provides an exemption from the applicability of the emission limits for "the generation of fugitive dust which the director has determined is subject to rule 3745-17-08". This has frequently been interpreted that fugitive dust sources are exempt from the limits in 3745-17-11 and that the limits only apply to stacks [likely due to wording in paragraphs 3745-17-11(A)(3) and (A)(5)]. However, a fugitive dust source is only subject to 3745-17-08 if it is located in an Appendix A area, so there are several fugitive dust sources that are not subject to 3745-17-08.

- a. If the intention of this exemption is to exempt all fugitive dust sources (that don't have stack emissions) from the emission limits in 3745-17-11, then Canton LAA recommends the following revisions to the language for 3745-17-11(A)(1)(f):  
  
"The generation of fugitive dust from a fugitive dust source as defined in 3745-17-01(B)(7) of the Administrative Code that doesn't also emit particulate matter from one or more stacks."  
  
b. If the intention of this exemption is to not exempt all fugitive dust sources from the emission limits in 3745-17-11, but only those sources that already have applicable fugitive dust limits, then Canton LAA recommends no changes.

Note: The above recommendation is especially important for outdoor painting/coating operations in non-Appendix A areas and the applicability of 3745-17-11(C). These sources would be fugitive dust sources not subject to 3745-17-08, but would be required to install a control device to comply with 3745-17-11(C) per the existing rule language.

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 29:** Fugitive dust sources that are subject to OAC rule 3745-17-08 but are exempt because they are not located in Appendix A areas are still exempt from OAC rule 3745-17-11 per OAC rule 3745-17-11(A)(1)(f). The proposed revision noted in part (a) of the comment is therefore not necessary.

**Comment 30:** Revise the language used for process weight rate in 3745-17-11(A)(2) to align with the definition provided in 3745-17-01(B)(17), per the following:

"...Table I" in the appendix to this rule relates process weight of materials introduced into any specific process (at its maximum capacity) that may result in particulate emissions to maximum allowable mass rate of emission. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels when they are used solely as fuels and combustion air will not."

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 30:** Ohio EPA has added the sentence "Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels when they are used solely as fuels and combustion air will not" to OAC rule 3745-17-11(A)(2) as recommended by the commenter.

**Comment 31:** Revise the language used for process weight rate in 3745-17-11(A)(4) to align with the definition provided in 3745-17-01(B)(17), per the following:

“For purposes of "Table I" in the appendix to this rule, process weight per hour is the total weight of all materials introduced into any single, specific process (at its maximum capacity) that may cause any emission of particulate matter. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels when they are used solely as fuels and combustion air will not.”

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 31:** Ohio EPA has added the phrase “when they are used solely as fuels” to OAC rule 3745-17-11(A)(4) as recommended by the commenter.

**Comment 32:** There are residential wood heaters and residential outdoor wood boilers in operation that are not small enough to meet the de minimis exemption (per OAC 3745-15-05). These sources would be subject to the applicable requirements listed in Chapter 3745-17. However, it has been interpreted that the requirements listed in Chapter 3745-17 don't apply to these residential sources. This interpretation is unclear how the rules are currently written. Therefore, Canton LAA recommends the following exemption be added to the list under OAC 3745-17-11(A)(1):

“residential wood burning-appliances and residential pellet stoves capable of and intended for residential space heating or space heating and domestic water heating, located either indoors or outdoors, burning only clean seasoned firewood or wood pellets.”

Note: If this is agreed to be added, then new definitions also need to be added as recommended elsewhere.

**(Terri Dzienis, Canton City Health Department, Air Pollution Control Division)**

**Response 32:** Ohio EPA added paragraph (n) the OAC rule 3745-17-11(A)(1), as follows:

(n) Residential wood burning appliances and pellet stoves.

3745-17-13, “Additional restrictions on particulate emissions from specific air contaminant sources in Jefferson county”

**Comment 33:** TRC Environmental Corporation (TRC), on behalf of River Rail Development, LLC (River Rail), is submitting comments on the draft amendments to OAC Chapter 3745-17, dated June 7, 2016. Specifically, our comments address the proposed language in OAC rule 3745-17-13 as they relate to the former Wheeling-Pittsburgh Steel Corporation property located at South 3rd Street, Steubenville, Ohio.

OAC 3745-17-13(C) provides site specific work plan requirements for the former Wheeling Pittsburgh facility (aka, former RG Steel Property; aka River Rail Development). The facility no longer operates as described in the draft language. It is our recommendation that the section relating to this facility, OAC rule 3745-17-13(C), be eliminated from the rule in its entirety. Those sections referencing the facility in the section's Appendix should also be removed.

In addition to our recommendations we note the apparent typographic errors included in the draft rules:

- The proposed change of the facility name to "Mingo Junction Steel Works LLC" is incorrect. Mingo Junction Steel Works LLC is a subsidiary of the Frontier Group and is distinct and separate from the ownership of the Steubenville facility. The Steubenville facility has had numerous owners (Wheeling-Pittsburgh Steel, Esmark, Inc., Severstal Steel, and finally RG Steel) before the property was purchased by River Rail Development, LLC in 2012.
- The facility premise number cited in the proposed rule revision, Ohio EPA premise number 0641090010, is no longer actively associated with the Steubenville facility. All permits related to the former steel mill have been withdrawn or have expired, including the one associated with the roadways and parking areas (former Ohio EPA source number 0641090010 F101). River Rail, the owner/operator/landlord of the property, has air contaminant source permits under the premise number 0641155015. A tenant leasing space from River Rail, Tidewater Logistics Corporation, has been assigned a separate premise number of 0641155014 for its air permits.

**(Jeff Slaybeck, TRC Environmental Corporation, on behalf of River Rail Development, LLC)**

**Response 33:** Ohio EPA has removed paragraph (C) and relevant sections of Appendix A as requested by the commenter. Removal of paragraph (C) also addresses the two bulleted comments.

**Comment 34:** Lastly, DAPC has not recommended any substantive amendments to OAC 3745-17-14. Nonetheless, as with other regulations in Chapter 3745-17, we would again recommend DAPC amend the rule language to clarify the rule's continuing application and delete the language that is no longer applicable.

Specifically, DAPC should amend Paragraph (A) to recognize that the listed facilities (presumably) already submitted control strategies and compliance schedules by April 1, 1992. Ohio EPA should delete the requirements for those already submitted control strategies and compliance schedules from subparagraphs (1) – (5). And DAPC should also delete paragraph (B), as it simply describes the manner in which the director was required to approve the control strategies submitted under paragraph (A) in 1992. For similar reasons, DAPC can delete the parenthetical in paragraph (C) (prohibiting a formal determination of noncompliance with the PM NAAQS in Cuyahoga or Jefferson County until 1994) as well. **(Eric B. Gallon and Robert L. Brubaker, Porter, Wright, Morris and Arthur LLP, on behalf of numerous and diverse companies)**

**Response 34:** Ohio EPA evaluated the need for the above mentioned paragraphs and determined that it was still necessary to retain the language. While facilities are still operating that may have had to comply with these deadlines, Ohio EPA finds value in retaining the language in the rule. During future reviews, if Ohio EPA determines that all facilities that were required to comply with these deadlines have permanently shut down, and it is determined that no additional facilities which must comply will be found, then Ohio EPA may remove the language.

**End of Response to Comments**