



Interested Party Review — Voluntary Action Program Draft Rules

Ohio EPA prepares interested party review fact sheets to ensure stakeholders are provided an opportunity to review and comment on the proposed draft rules prior to their adoption.

What does OAC chapter 3745-300 cover?

The Voluntary Action Program (VAP) is governed by rules within OAC chapter 3745-300. The VAP was created to give individuals a way to investigate possible environmental contamination, clean it up, if necessary, and receive a promise from the State of Ohio that no more clean-up is needed.

Why are these rules being amended?

DERR concluded a five year review rule review of the VAP rules in August 2014. Since that time, we have determined that there were several typographical errors that needed to be corrected and clarifications within the rules that needed to be made as a result of that rule review, as well as changes to make submittals to the agency consistent amongst all of the rules.

What changes are being considered?

Ohio EPA Division of Environmental Response and Revitalization (DERR) is considering the following changes to the VAP rules within OAC chapter 3745-300:

- OAC 3745-300-01: Clarify definition of 'voluntary action opinion' to provide better understanding of its meaning; correct a support document referenced in rule; correct the citation date of a referenced document.
- OAC 3745-300-02: Fix typo.
- OAC 3745-300-03: Adds language to streamline fee submittal process to include electronic payment.
- OAC 3745-300-05: Fix cross referencing typo.
- OAC 3745-300-07: Clarify for consistency with requirements in OAC 3745-300-11; include survey map requirements for risk mitigation plan and environmental covenant property areas, similar to requirements for O&M plan areas; include updated terminology.
- OAC 3745-300-08: Fix typos; clarify terminology; clarify when exposure units need to be referenced; clarify MCLs and risk based standards.
- Appendix to OAC 3745-300-08: Correct numerical values in tables I, II and III that are currently inaccurate; include missing values (MCLs) in table VI.
- OAC 3745-300-09: Fix typos; include omitted language on exposure units for consistency with OAC 3745-300-07; fix a discrepancy between the rule and referenced support document.
- OAC 3745-300-10: Fix typos; correct cross referencing discrepancies; make clarifications to response requirements language.
- OAC 3745-300-11: Insert missing language omitted from last rule change, to coordinate with survey map requirements under OAC 3745-300-07; clarify remedy revision process.
- OAC 3745-300-13: Correct cross references; updated rule name to include process for NFA letter procedures as well as content; correct requirements for map submittals.
- OAC 3745-300-14: Correct cross references.

Who will be regulated by these rules?

Entities who are seeking a covenant not to sue from Ohio EPA under the VAP, laboratories certified in the program and professionals certified in the program will be regulated by these rules. However, it is important to note that there are not

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any substantive changes being proposed to any of the VAP rules during this rule making. This rulemaking is simply to make corrections to errors within the existing rules that were inadvertently made, and to correct omissions that were inadvertently left out during the 2014 five year rule review.

What is the rulemaking schedule?

At this time, the Agency is soliciting input on these draft rule revisions. Ohio EPA is required by section 121.39(D) of the Revised Code to contact potentially affected parties prior to adopting rule changes.

At the close of the draft rule comment period, the Agency will review the comments and make necessary changes to the rules. The Agency will then file the proposed rules with the Joint Committee on Agency Rule Review (JCARR), the Legislative Service Commission and the Secretary of State. Ohio EPA expects to file the proposed rules in the winter of 2016 with JCARR.

What input is the Agency seeking?

The agency is seeking comments from interested stakeholders (public, local officials, industry sectors, other state agencies, consultants, and environmental organizations) who may be impacted by these rule revisions. General comments and specific factual information are welcome.

How are the amendments formatted in the draft rules?

Text that is considered for deletion is identified in red strikeout font; new text is blue and underlined.

How can I comment on the draft rules?

Please submit your comments in one of the following ways:

- By email to: Emily.Patchen@epa.ohio.gov
- By fax: 614-644-3146
- By postal mail:
Emily Patchen
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Comments on the draft rules must be received no later than January 4, 2016

How can I get more information?

Copies of this fact sheet, the Business Impact Analysis, and the draft rules are all available on the Division of Environmental Response and Revitalization website at: <http://www.epa.state.oh.us/derr/derrrules.aspx>

For more information on the draft rules, please contact:

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