



Division of Environmental Response and Revitalization

Early Stakeholder Outreach – Hazardous Waste Management Program: Definition of Solid Waste Rulemaking

Ohio EPA prepares early stakeholder outreach fact sheets to ensure stakeholders are brought into the rule review process as early as possible and to obtain additional input and discussion before development of interested party draft rules.

What will these rules cover?

The rules addressed by this Early Stakeholder Outreach (ESO) are in the Hazardous Waste Management program, and they regulate all facets of the program including permitting; identification and listing of hazardous waste; transporter standards; generator standards; treatment, storage, and disposal standards; land disposal restrictions; universal waste management; and used oil management. These amended and new rules will be in the Ohio Administrative Code (OAC) Chapters 3745-50 and 3745-51.

Why are these rules being sent out for Early Stakeholder Outreach?

The first step in the rulemaking process is for Ohio EPA to identify what rules need to be amended, rescinded, or created. In response to Executive Order 2011-01K, Ohio EPA has added an additional step to ensure stakeholders are brought into the rulemaking process as early as possible. This additional notification and request for information will allow for early feedback before rule language has been developed by Ohio EPA.

What changes are being considered?

The changes under consideration include both Federally-driven updates and state-initiated changes based on the rules' 5-year review required under ORC 106.03.

Federally-driven changes:

This Fact Sheet describes Ohio EPA's intent to address the federal "Definition of Solid Waste" (DSW) rules, as created and amended in several Federal Registers (FRs). Ohio's hazardous waste rules must be functionally equivalent to their federal Resource Conservation and Recovery Act (RCRA) counterpart regulations in 40 CFR Parts 260 to 279. Several Ohio rules need to be amended, rescinded, or new rules created, to address changes to the federal RCRA counterpart provisions as published in these DSW FRs:

- **80 FR 1694, dated 01/13/2015;** DSW: Changes affecting all non-waste determinations and variances; legitimacy-related provisions, including prohibition of sham recycling, definition of legitimacy, definition of contained; speculative accumulation; exclusions and non-waste determinations; and remanufacturing exclusion.
- **83 FR 24664, dated 05/30/2018;** Response to court's vacature of certain provisions of the definition of solid waste rule: Changes affecting all non-waste determinations and variances [court decisions 07/07/2017, amended 03/06/2018]; legitimacy-related provisions, including prohibition of sham recycling, definition of legitimacy, definition of contained; and exclusions and non-waste determinations.

How can I provide input?

Ohio EPA is seeking stakeholder input on the amendments to these rules in the Hazardous Waste Management Program.

When preparing your comments, be sure to:

- explain your views as clearly as possible;
- describe any assumptions used;
- provide any technical information and/or data used to support your views;
- explain how you arrived at your estimate for potential burdens, benefits or costs;
- provide specific examples to illustrate your views; and
- offer alternatives.

Written comments will be accepted through close of business **January 10, 2022**.

Please submit input to:

derr_rulecomments@epa.ohio.gov

What if I have questions?

Please contact Tammy Heffelfinger at Tammy.Heffelfinger@epa.ohio.gov

State-initiated changes:

Some of the existing rules in this rules package will be reviewed pursuant to ORC 106.03 to accomplish their required 5-year review. Some are currently exempt from 5-year review, but are included to make non-substantive corrections (e.g., typos), and “housekeeping” amendments to ensure that the new rules are referenced as appropriate. As these rules are reviewed, additional rules from the above-mentioned OAC Chapters may be added to this rule package to achieve or maintain programmatic consistency. The amended/reviewed rules in this package are: 3745-50-10, 3745-50-11, 3745-50-23, 3745-50-24, 3745-50-26, 3745-50-51, 3745-51-01, 3745-51-02, 3745-51-04, and 3745-51-06.

Who will be affected by these rules?

Anyone who is currently regulated by the hazardous waste management rules as a generator, transporter, importer, or exporter of hazardous waste, or who engage in the treatment, storage, or disposal of hazardous waste or waste that is determined to be universal waste, are regulated by the rules in this ESO.

What is the rulemaking schedule?

These rules will be subject to this ESO review for approximately 30 days, when comments will be due. We will consider all the comments we receive, and we will prepare a package of draft rules to be reviewed by Interested Parties prior to the rules’ submittal to JCARR as proposed rules.

What input is Ohio EPA seeking?

The following questions may help guide you as you develop your comments.

- Is the general regulatory framework proposed the most appropriate? Should Ohio EPA consider any alternative framework?
- What options are available for improving an identified concept? What options are available for improving the existing rules?
- Are there considerations Ohio EPA should take into account when updating the existing rules? Are there considerations Ohio EPA should take into account when developing a specific concept?
- Is there any information or data Ohio EPA should be aware of when developing program concepts or rule language?

Ohio EPA would especially like to hear information regarding the following from stakeholders who may be impacted by the amended program elements.

- Would this regulatory program have a positive impact on your business? Please explain how.
- Would this regulatory program have an adverse impact on your business? If so, please identify the nature of the adverse impact (for example, license fees, fines, employer time for compliance).

Contact

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Division of Environmental Response and Revitalization

Early Stakeholder Outreach – Hazardous Waste Management Program: Organic Air Emissions Rulemaking

Ohio EPA prepares early stakeholder outreach fact sheets to ensure stakeholders are brought into the review process as early as possible and to obtain additional input and discussion before development of interested party draft rules.

What do these rules cover?

The rules addressed by this Early Stakeholder Outreach (ESO) are in the Hazardous Waste Management program, and they regulate all facets of the program including permitting; identification and listing of hazardous waste; transporter standards; generator standards; treatment, storage, and disposal standards; land disposal restrictions; universal waste management; and used oil management. These rules are in the Ohio Administrative Code (OAC) Chapters 3745-50, 3745-51, 3745-52, 3745-54, 3745-55, 3745-56, 3745-57, 3745-65, 3745-66, 3745-67, 3745-68, 3745-69, 3745-205, 3745-256, 3745-266, and 3745-273.

Why are these rules being sent out for Early Stakeholder Outreach?

The first step in the rulemaking process is for Ohio EPA to identify what rules need to be amended, rescinded, or created. In response to Executive Order 2011-01K, Ohio EPA has added an additional step to ensure stakeholders are brought into the rulemaking process as early as possible. This additional notification and request for information will allow for early feedback before rule language has been developed by Ohio EPA.

What changes are being considered?

The changes under consideration include both Federally-driven updates and state-initiated changes based on the rules' 5-year review required under ORC 106.03.

Federally-driven changes:

This Fact Sheet describes Ohio EPA's intent to address the federal **Organic Air Emissions** rules, as created and amended in several Federal Registers (FRs). Ohio's hazardous waste rules must be functionally equivalent to their federal Resource Conservation and Recovery Act (RCRA) counterpart regulations in 40 CFR Parts 260 to 279. Several Ohio rules need to be amended, rescinded, or new rules created, to address changes to the federal RCRA counterpart provisions as published in the FRs listed below. Several of these FRs indicated that only the Organic Air Emissions (subparts AA, BB, and CC) portions are being addressed because Ohio EPA has already addressed the other rule amendments in those FRs. The two primary FRs are highlighted; these created most of the new regulatory provisions.

- **Organic air emission standards for process vents and equipment leaks [subparts AA, BB]; 55 FR 25454, dated 06/21/1990.**
- TSD organic air emission standards for process vents and equipment leaks: tech. amendment [subparts AA, BB]; 56 FR 19290, dated 04/26/1991.
- **Organic air emission standards for tanks, surface impoundments, and containers [subpart CC]; 59 FR 62896, dated 12/06/1994.**
- *Subpart CC: amendment- delay of effective date; 60 FR 26828, dated 05/19/1995.
- *Subpart CC: administrative stay of some portions; 60 FR 50426, dated 09/29/1995.

How can I provide input?

Ohio EPA is seeking stakeholder input on the amendments to these rules in the Hazardous Waste Management Program.

When preparing your comments, be sure to:

- explain your views as clearly as possible;
- describe any assumptions used;
- provide any technical information and/or data used to support your views;
- explain how you arrived at your estimate for potential burdens, benefits or costs;
- provide specific examples to illustrate your views; and
- offer alternatives.

Written comments will be accepted through close of business **January 10, 2022**.

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- *Subpart CC: delay of effective date; 60 FR 56952, dated 11/13/1995.
- Subpart CC: amendment; 61 FR 4903, dated 02/09/1996.
- *Subpart CC: delay of effective date to 10/06/1996; 61 FR 28508, dated 06/05/1996.
- *Subpart CC: correction and delay of effective date to 12/06/1996; 61 FR 59932, dated 11/25/1996.
- Testing and monitoring activities amendment III [subpart AA, BB portions only]; 62 FR 32452, dated 06/13/1997.
- Subpart CC: amendments; 62 FR 64635, dated 12/08/1997.
- Subpart CC: Clarification and technical amendment; 64 FR 3381 3391, dated 01/21/1999.
- NESHAP: surface coating of automobiles and light trucks [subparts AA, BB portions only]; 69 FR 22601, dated 04/26/2004.
- Testing and monitoring activities; methods innovation rule and SW-846 final update IIIB [subparts AA, BB, CC portions only]; 70 FR 34537-34592, dated 06/14/2005.
- NESHAP/BIF/MACT: [subpart BB portion]; 70 FR 59401, dated 10/12/2005.
- Burden reduction rule [subpart BB portions only]; 71 FR 16861, dated 04/04/2006.
- Hazardous waste and used oil, corrections to 40 CFR [subpart AA, BB, CC portions only]; 71 FR 40254, dated 07/14/2006.
- Hazardous waste technical corrections and clarifications rule [subpart AA, BB, CC portions only]; 75 FR 12989, dated 03/18/2010.
- Waste management system, testing and monitoring activities, notice of availability of final Update V of SW-846 (guidance, no federal rule changes but prompts update to OAC 3745-50-11); 80 FR 48522, dated 08/13/2015.
- Hazardous waste generator improvements rule [subparts AA, BB, CC portions only]; 81 FR 85732, dated 11/28/2016.

* In these FRs, the delays of the federal effective date will not be addressed, and the federal administrative stay will be handled differently in the Ohio rules since the OAC does not accommodate administrative stays.

State-initiated changes:

Some of the existing rules in this rules package will be reviewed pursuant to ORC 106.03 to accomplish their required 5-year review. Some are currently exempt from 5-year review, but are included to make non-substantive corrections (e.g., typos), and “housekeeping” amendments to ensure that the new rules are referenced as appropriate. As these rules are reviewed, additional rules from the above-mentioned OAC Chapters may be added to this rule package to achieve or maintain programmatic consistency. The amended/reviewed rules in this package are: 3745-50-11, 3745-50-33, 3745-50-35, 3745-50-44, 3745-50-49, 3745-51-06, 3745-52-35, 3745-54-01, 3745-54-10, 3745-54-13, 3745-54-15, 3745-54-73, 3745-54-77, 3745-55-17, 3745-55-18, 3745-55-70, 3745-55-90, 3745-56-20, 3745-57-40, 3745-57-91, 3745-65-01, 3745-65-13, 3745-65-15, 3745-65-73, 3745-65-77, 3745-66-17, 3745-66-18, 3745-66-70, 3745-66-90, 3745-66-93, 3745-67-20, 3745-68-40, 3745-69-01, 3745-205-200, 3745-256-200, 3745-266-22, 3745-266-80, 3745-266-100, 3745-266-102, 3745-266-103, 3745-266-106, 3745-266-107, 3745-266-111, 3745-266-112, 3745-273-13, and 3745-273-33.

Who will be affected by these rules?

Anyone who is currently regulated by the hazardous waste management rules as a generator, transporter, importer, or exporter of hazardous waste, or who engage in the treatment, storage, or disposal of hazardous waste or waste that is determined to be universal waste, are regulated by the rules in this ESO. See Table 1. below for more detail:

What is the rulemaking schedule?

These rules will be subject to this ESO review for approximately 30 days, when comments will be due. We will consider all the comments we receive, and we will prepare a package of draft rules to be reviewed by Interested Parties prior to the rules’ submittal to JCARR as proposed rules.

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Table1. General overview of RCRA Subparts AA, BB & CC rules

	Subpart AA	Subpart BB	Subpart CC
Promulgated	6/21/1990	6/21/1990	12/6/1994
Who is regulated?	TSDFs, LQGs (LQGs rarely regulated, due to recycling provisions)	TSDFs, LQGs (40 CFR 265.1(c)(7), 40 CFR 262.17)	TSDFs, LQGs
What is regulated?	Process vents associated with HW distillation, fractionation, thin-film evaporation, solvent extraction, or air/steam stripping operations	HW equipment (valves, flanges, pumps, etc.) not operated in vacuum service.	HW containers > .1m ³ (appx. 26 gal), tanks, and surface impoundments that hold waste placed in the unit on or after 12/6/1996, not undergoing closure, and not solely for on-site remedial treatment
When do regulations apply?	≥10 ppmw organic concentration (time-weighted annual average)	≥10% total organics (by weight) in contact/containing for ≥300 hours/calendar year	≥500 ppmw average VO concentration at point of origination
Standard	Reduce total organic emissions from all regulated process vents to below 3 lbs/hr and 3.1 tons/year or reduce emissions (through control device) from all regulated process vents by 95%. Maintain documentation.	Monitor for and repair equipment leaks. LDAR (leak detection and repair). Maintain documentation.	Controls in place or sufficient VO reduction through treatment. Maintain documentation.
Cross-program exemptions	All process vents are operating under Clean Air Act regulation at 40 CFR 60, 61, or 63	Documentation of compliance with regulations at 40 CFR 60, 61, or 63	HWMU operating emission control under Clean Air Act regulation at 40 CFR 60, 61, or 63
Misc. exemptions	Closed-vent systems designated unsafe to monitor (delay in monitoring frequency)	Equipment designated unsafe or difficult to monitor (delay in monitoring frequency)	Organic peroxide production waste (special requirements). Satellite accumulation.