

CHAPTER 1000

**Air Pollution Control Regulations**

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CROSS REFERENCES

- State Air Pollution Control Law - see ORC 3704
- Air Quality Development Authority - see ORC 3706.01 et seq.
- Excessive smoke or gas from mufflers - see ORC 4513.22
- Air pollution tax exemptions - see ORC 5709.20 et seq.
- Open burning - see OAC 3745-19-01 et seq.
- General provisions - see EHC 100
- Air pollution control fees - see EHC 101

**EHC** Environmental Health Code      **ORC** Ohio Revised Code      **OAC** Ohio Administrative Code

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**1000.01 ADOPTION OF THE FEDERAL CLEAN AIR ACT AND THE OHIO ADMINISTRATIVE CODE CAPTERS AND SECTIONS.**

There is hereby adopted, as if fully set out at length herein, the Federal Clean Air Act and the following air pollution regulations located in the Ohio Administrative Code, as amended from time to time, except portions hereinafter deleted, modified or amended. Additional Chapters are added as needed to address new laws and requirements related to air pollution control. Any future added Chapters are assumed to be adopted.

TABLE INSET:

OAC 3745-14	Nitrogen Oxides - Budget Trading Program
OAC 3745-15	General Provision on Air Pollution Control
OAC 3745-16	Stack Height Requirements
OAC 3745-17	Particulate Matter Standards

OAC 3745-18	Sulfur Dioxide Regulations
OAC 3745-19	Open Burning Standards
OAC 3745-20	Asbestos Emission Control
OAC 3745-21	Carbon Monoxide, Photochemically Reactive Materials, Hydrocarbons, and related Materials Standards
OAC 3745-23	Nitrogen Oxide Standards
OAC 3745-24	NOx and VOC Emission Standards
OAC 3745-25	Ambient Air Quality and Emergency Episode Standards
OAC 3745-26	I/M Program Rules and Regulations
OAC 3745-31	Permits to Install New Sources
OAC 3745-71	Lead Emissions
OAC 3745-72	Low Reid Vapor Pressure Fuel Requirements
OAC 3745-73	Total Reduced Sulfur
OAC 3745-75	Infectious Waste Incinerator Limitations
OAC 3745-76	Control of Non-methane Organic Compound (NMOC) Emissions From Existing Landfills
OAC 3745-77	Title V Permit Rules
OAC 3745-78	Air Pollution Control Fees
OAC 3745-79	Small Business Technical Assistance
OAC 3745-80	Statewide Motor Vehicle Anti-Tampering Program
OAC 3745-100	Toxic Chemical Release Reporting (TRI)
OAC 3745-101	Transportation Conformity Rules
OAC 3745-102	General Conformity Rules
OAC 3745-103	Acid Rain Permits and Compliance
OAC 3745-104	Accidental Releases Prevention Program
OAC 3745-105	Pathological Waste Incinerators
OAC 3745-109	Clean Air Interstate Rule
OAC 3745-110	Nitrogen Oxides - Reasonably Available Control Technology
OAC 3745-111	ERC Banking Program
OAC 3745-112	Consumer Products
OAC 3745-113	Architectural and Industrial Maintenance (AIM) Coatings
OAC 3745-114	Toxic Air Contaminants

B. A complete copy of the Ohio Administrative Code is on file with the Secretary for the Board of Health. The Secretary for the Board of Health will make copies available for distribution to the public at cost. A complete copy of the Ohio Administrative Code is also on file in the Summit County Law Library in Akron, Ohio. The Ohio Administrative Code can be reviewed online at <http://codes.ohio.gov>.

#### **1000.02 PERMITS.**

Applications for Ohio Environmental Protection Agency permits may be made to the Administrator of the Air Quality Management District in accordance with Ohio Administrative Code §§ 3745-31 and 3745-77.

#### **1000.03 ADOPTED CHAPTERS AND SECTION OF THE OHIO ADMINISTRATIVE CODE ARE HEREBY AMENDED IN THE FOLLOWING RESPECTS.**

A. "Agency," "Ohio EPA," "OEPA" and "Board" are hereby amended to refer the Summit County Combined General Health District, the Health Commissioner or the Administrator of Air Quality Management as the context of other law may require.

B. Except in the following chapters and subsections, all references to the Director of the Ohio Environmental Protection Agency refer to, in addition to the Director of the Ohio Environmental Protection Agency, to the Health Commissioner or to his designee or the Administrator of the Air Quality Management District, as the context of other rules or law may require:

TABLE INSET:

3745-16-02	(C)(D)
3745-17-04	(A)(3)
3745-71-05	
3745-17-07	(A)(3)(a)(i)(ii), (A)(3)(b)(i)(ii), (C)(3)(b)
3745-17-10	(B)(3)(c), (C)(5)
3745-17-14	(C)(D)
3745-18-04	(D)(3)(a), (D)(5)(c)(i)
3745-18-05	(A)(E)
3745-21-09	(B)(2), (I)(2), (K)(3) (DD)(16)(a), (MM)(4)(b)(ii)

#### **10007.04 DEFINITIONS.**

In addition to definitions set forth in Chapter 3745 of the Ohio Administrative Code, as adopted and amended, the following words and phrases, as used in this chapter, shall have the following meanings:

1. "Administrator" means the Air Quality Management Administrator as prescribed and defined by the Health Commissioner or his designee.
2. "Agency" shall mean the Akron Regional Air Quality Management District (ARAQMD).
3. "Applicable law" shall, unless otherwise expressly specified, include applicable provisions of Chapter 97 of this code, Chapter 3704 of the Ohio Revised Code as amended; rules, regulations and orders of the U.S. Environmental Protection Agency; the Clean Air Act, as amended; and/or rules and regulations of the Administrator of the Ohio Environmental Protection Agency, as amended.

#### **1000.05 REGIONAL AIR QUALITY MANAGEMENT.**

A. Establishment. For the purpose of protecting the health, welfare, and property of the citizens of Summit County, there is hereby established the Akron Regional Air Quality Management District in the Summit County Combined General Health District. The Akron Regional Air Quality Management District shall adopt a comprehensive plan to control excessive emission of air pollutants within the corporate limits so that the resultant adverse effect upon the public health, welfare and property may be lessened.

B. The Akron Regional Air Quality Management shall include one administrator and such deputies and employees as may be provided for by the Board of Health.

C. The Health Commissioner is authorized to enter into contracts with other political subdivisions of the State of Ohio and the United States Environmental Protection Agency to confirm the role of the Akron Regional Air Quality Management District in the enforcement of the State of Ohio Air Pollution Control Law and regulations and Local Air Pollution Control Ordinances.

#### **1000.06 INSPECTIONS.**

- A. The Administrator or designee may enter at any reasonable time, with reasonable notice, any property, for the purpose of inspection and investigation of any condition or equipment which the Administrator has reasonable cause to believe is causing pollution in violation of this air pollution code.
- B. The Administrator or designee may inspect at any reasonable time and in a reasonable manner, with reasonable notice, any record relating to the use of equipment, or the use, distribution, storage or transportation of fuel, or control apparatus which may affect the emission of air contaminants.
- C. During the course of an inspection, if the Administrator or designee obtains a sample of contaminant, fuel, process material or other material which may affect the emission or contaminants, he shall, upon request, forward by certified mail to the owner of, occupant of, or operator of project on the property a receipt for the sample.
- D. If samples of air contaminants are taken for analysis, a duplicate of the analytical report shall be furnished upon request to the owner of, occupant of, or operator of project on the property.
- E. If photographs are taken on private property, such photographs shall be offered for inspection to the owner of, occupant of, or operator of project on the property, and the Administrator shall provide copies of the photographs at the expense of any person requesting them.
- F. If the Administrator believes that a consultant is needed to accompany him or other member of the Agency in making an inspection or assisting in conducting tests, the property owner, occupant or operator of project shall be given reasonable advance notice thereof.
- G. No person shall obstruct, delay, prevent or in any way interfere with the Administrator or other member of the Agency performing his or her duties.

#### **1000.07 ABATEMENT OF POLLUTION.**

- A. Upon discovery of any violation of city, state, or federal environmental law, standard, order, rule or regulation, the Administrator of ARAQMD or his designee shall, in person and/or certified mail, serve a notice of violation upon the property owner, occupant or operator of project. The notice of violation shall identify the specific violation and a recommendation for remedial action.
- B. Upon receipt of the notice of violation, the property owner, occupant or operator of project shall have fourteen calendar days to abate the violation or provide for a remedy acceptable to the Administrator.
- C. Fourteen days after such notice, when the time period for response and remedy has elapsed, the Administrator, when local regulations are involved, may issue findings and orders to the property owner, occupant or operator of project. Such findings and orders shall include the factual and legal basis for the Administrator's action, a mandatory program for remedial action and the penalties for past and future noncompliance.
- D. If the Administrator has reasonable cause to determine that any person is causing air pollution which would require immediate action to protect the public health, welfare, safety or property, the Administrator shall take the immediate action to abate and/or eliminate the pollution.

#### **1000.08 CONFIDENTIALITY OF RECORDS.**

Any records, books, files, reports or other information furnished to or obtained by the Administrator or his employees and or his agents for which the owner has requested confidential treatment shall not be published or made available to the public unless such records, books, files, reports or other information are not, under law, entitled to such confidential treatment. Emissions information shall not be considered confidential.

#### **1000.09 CONFLICT OF INTEREST.**

- A. The Administrator, and his employees and agents, shall not be directly or indirectly interested in the manufacture, ownership, agency or sale of fuel, steam or hot water boilers, fuel-burning combustion process, equipment or devices for air pollution control, or apparatus or devices connected therewith.

B. The Administrator, and his employees and agents, shall not act as a consultant for any person within the jurisdiction of this Air Pollution Code, nor shall they recommend the employment of a particular consultant to anyone affected by this code.

C. The Administrator, and his employees and agents, shall not perform or assist in any tests or other services in connection with equipment which might cause pollution for any person within the jurisdiction of this code, not otherwise required in the performance of their duties.

#### **1000.10 SERVICE OF NOTICES.**

A. Service of any written notice required by Chapter 97 shall be given by certified mail directed to the last known address of the property owner, occupant or operator of project, or if the whereabouts of such person is unknown, by posting such notice on or near the entrance to the premises, source, or equipment of the alleged violations.

B. Service of any written notice required by this code to be made on the Administrator shall be made by certified mail to: Administrator, Akron Regional Air Quality Management District, City of Akron, 146 S. High Street, Room 904, Akron, Ohio 44308.

#### **1000.11 FALSE STATEMENTS.**

A. No person shall willfully make a false or misleading statement to the administrator or to any employee of the Health District relative to any matter regulated by this chapter.

B. No person shall falsely state that any pollution control device has been approved by the Administrator.

#### **1000.12 ADVISORY BOARD.**

A. There is hereby created the Air Quality Management Advisory Board, hereinafter referred to as "the Advisory Board." The appointees shall consist of electors, from within the territorial limits of each adjoining contracting political subdivision, knowledgeable and interested in the field of air pollution control.

B. Each contracting agency shall have and be entitled to one representative for the first fifty thousand inhabitants or fraction thereof, and an additional representative for each one hundred thousand inhabitants thereafter.

C. Delegates representing the City of Akron shall be appointed by the Mayor as provided in the charter, and all other appointments to the board shall be made in accordance with the respective political subdivision's prescribed appointment procedure.

D. Appointments shall be made for a term of four years.

E. The Air Quality Administrator or his designee shall serve as chairman of the Advisory Board.

F. The Advisory Board may make recommendations concerning air pollution control rules and regulations provided in this chapter and on other matters related to air pollution control submitted to it by the Agency, and make recommendations to the Agency on its own initiative concerning the air pollution control.

G. The Advisory Board shall meet at the call of its chairman, at the written request of three members. All meetings of such Advisory Board shall be public and shall be held at such public places as the Board shall select. Regular meetings of such Board shall be at least three times a year.

H. Such Advisory Board shall, in matters relating to air pollution and air pollution control:

1. Advise and counsel the Administrator of the Division of Air Quality Management and any deputy or employee thereof;

2. Draft and recommend amendments to this chapter so that the Akron standards are consistent with State and Federal standards;

3. Recommend and assist the Agency in making known rules and regulations and ambient air emission standards consistent with the emission standards contained in this chapter;

4. Perform such other duties and advisory functions, not inconsistent with the provisions of this chapter, as might be prescribed by the Health Commissioner

**1000.13 FEES.**

Local fees for services shall be established by the Board of Health as adopted in Chapter 101 of the Environmental Health Code of the Summit County Combined General Health District.

**1000.14 CONFLICT OF LAWS.**

To the extent the Air Pollution Control Regulations adopted in Section 1000 are in conflict with and change former rules and regulations, such Air Pollution Control Regulations shall control and have precedence, but as to matters not changed and altered, such Air Pollution Control Regulations shall supplement and be in addition to the other rules and regulations of the Board of Health.

**1000.99 PENALTY.**

Whoever violates or fails to comply with any of the provisions of this Environmental Health Code shall be in violation of ORC 3707.48, 3709.20, 3709.21 or 3709.22, and subject to penalties provided in ORC 3707.99 and 3709.99.

**A. Criminal.**

1. Any person convicted of violating any of the provisions of §§ 97.01 through 97.13 of this code is guilty of a misdemeanor of the first degree.
2. Each day of such violation shall constitute a separate offense.
3. All persons owning, operating, or in charge or control of any equipment who permit any violation of this code shall be individually and collectively liable for any penalties imposed by this code.
4. The Health District or any political subdivision served by the ARAQMD may, in addition to prosecutions, initiate other legal or equitable action for the abatement of pollution.

**B. Civil.**

1. The Administrator shall have the right to assess civil penalties for noncompliance, calculated according to the guidelines under comparable State and Federal law.
2. The Administrator shall consider the following criteria in assessing civil penalties:
  - a. The economic benefit to the violator in deferring remedial action;
  - b. The degree of environmental harm from the violation;
  - c. The recidivism of the violator;
  - d. Good faith efforts on behalf of the violator to take appropriate remedial action;
  - e. The duration of the violation after written notice from the agency.

**C. Private Actions.** The imposition of any penalty or any restriction in this chapter shall not abridge or otherwise impair the right of any person to maintain an action or take legal action to obtain relief for injuries to persons or property caused by a violation.