

Talking points for comments on restoration of the Air Nuisance Rule

The Basic Message

Four years ago, Ohioans were illegally deprived of their **best tool** to fight air pollution – the Ohio Air Nuisance Rule (ANR).

Ohioans had used it successfully for **50 years** to enforce environmental air laws.

We are now on the verge of getting that tool back, thanks to years of litigation that led to the February 22 announcement by the US EPA that it intends to **return the ANR** as a tool for citizen enforcement.

To ensure that we get the ANR back, we all need to tell the US EPA that we support reinstatement. ***The deadline for this public comment is April 24!***

Our law firm will provide a detailed formal comment letter next week that you and your organization might want to sign on to, but you might not want to wait to get involved.

You and the members of your organization could say something as simple as:

“I/We strongly support US EPA’s plan to reinstate the ANR, which will again empower communities to protect public health and the environment.”

But the more personalized your comment is the better.

*EPA’s preferred method for filing comments is through [Regulations.gov](https://www.regulations.gov), which also provides a receipt to allow better tracking. **Click [here](#) to comment at Regulations.gov.** Comments can also be submitted by email to **arra.sarah@epa.gov**, with the **Docket ID NO. EPA-R05-OAR-2020-0055** in the subject line, on or before April 24, 2024.*

Background

In 2020, the US EPA announced it was removing the ANR from the state’s Clean Air Act enforcement plan; the ANR had been on the books for nearly 50 years, and allowed everyday Ohioans to hold polluters accountable in federal court when regulators fail to act.

The US EPA tried to justify removal by saying the ANR tool had been given to Ohioans “by mistake.”

Inclusion of the ANR was not a mistake. It had been deliberately added to the state’s implementation plan for Clean Air Act compliance back then to give Ohioans a tool to combat pollution; US EPA approved it in 1984 and again in 2012.

Prior to 2020, the ANR had been used successfully, both inside and outside of court, by individual residents, community groups and local governments since 1974 to improve Ohio's air quality and protect the health of fence-line communities.

Ohioans need this federally enforceable rule to protect Ohio families and our health, especially when neither US EPA nor Ohio EPA are taking action.

Ohioans, particularly environmental justice communities, have endured years of pollution, toxics, particles, soot, odors, and acids that are harmful to their health and damage property. Many Ohioans experience ongoing nuisance conditions like these caused by nearby polluters on a frequent or daily basis. This rule allows affected communities to take legal action to stop the pollution.

Irreparable harm has been done to communities since its 2020 removal and will continue until the ANR is reinstated.

Permanent removal of the ANR would have devastating consequences for Ohioans living in environmental justice communities and near fracking sites, industrial factories, coal ash disposal operations, or in the midst of environmental disasters like the 2023 Norfolk Southern train derailment in East Palestine.

Failure to restore the ANR would permanently enable polluters by eliminating the consequences for air pollution. US EPA must restore the ANR so that Ohio residents and communities will once again be able to directly protect their health and property by using this critical tool.

US EPA's 2020 illegal scheme was made with the help of and in response to an intense lobbying effort on behalf of a company that had an ANR citizen suit claim for violating the rule. The details of the scheme did not become public until long after environmental groups challenged EPA's decision. After environmental groups challenged the ANR removal in court, trade associations representing many Ohio polluting facilities filed a brief with the court supporting the rollback.