

# SENATE BILL 265 OF THE 126th GENERAL ASSEMBLY (SB265)

## Air Toxics

- Effective December 1, 2006, Ohio EPA promulgated a list of air contaminants in [OAC rule 3745-114-01](#) in order to implement the requirements of the first and second paragraphs of division (F)(3)(c) of ORC 3704.03.

### **C 3704.09(F)(3)(c) An air contaminant source ..... abstract service number.**

The director may modify the rule adopted under division (F)(3)(c) of this section for the purpose of adding or deleting air contaminants. For each air contaminant that is contained in or deleted from the rule adopted under division (F)(3)(c) of this section, the director shall include in a notice accompanying any proposed or final rule an explanation of the director's determination that the air contaminant meets the criteria established in that division and should be added to, or no longer meets the criteria and should be deleted from, the list of air contaminants. The explanation shall include an identification of the scientific evidence on which the director relied in making the determination. Until adoption of the rule under division (F)(3)(c) of this section, nothing shall affect the director's authority to issue, deny, modify, or revoke permits to install under this chapter and rules adopted under it.

- Division (F)(4) of ORC 3704.03 contains specific language regarding implementation of the Air Toxics Program. At this time, Ohio EPA does not intend to incorporate these requirements into OAC rules. Rather, the requirements of the ORC shall be implemented directly as follows:

### **ORC 3704.09(F)(4)**

(a) Applications for permits to install new or modified air contaminant sources shall contain sufficient information regarding air contaminants for which the director may require a permit to install to determine conformity with the environmental protection agency's document entitled "Review of New Sources of Air Toxics Emissions, Option A," dated May 1986, which the director shall use to evaluate toxic emissions from new or modified air contaminant sources. The director shall make copies of the document available to the public upon request at no cost and post the document on the environmental protection agency's web site. Any inconsistency between the document and division (F)(4) of this section shall be resolved in favor of division (F)(4) of this section.

(b) The maximum acceptable ground level concentration of an air contaminant shall be calculated in accordance with the document entitled "Review of New Sources of Air Toxics Emissions, Option A." Modeling shall be conducted to determine the increase in the ground level concentration of an air contaminant beyond the facility's boundary caused by the emissions from a new or modified source that is the subject of an application for a permit to install. Modeling shall be based on the maximum hourly rate of emissions from the source using information including, but not limited to, any emission control devices or methods, operational restrictions, stack parameters, and emission dispersion devices or methods that may affect ground level concentrations, either individually or in combination. The director shall determine whether the activities for which a permit to install is sought will cause an increase in the ground level concentration of one or more relevant air contaminants beyond the facility's boundary by an amount in excess of the maximum acceptable ground level concentration. In making the determination as to whether the maximum acceptable ground level concentration will be exceeded, the director shall give consideration to the modeling conducted under division (F)(4)(b) of this section and other relevant information submitted by the applicant.

(c) If the modeling conducted under division (F)(4)(b) of this section with respect to an application for a permit to install demonstrates that the maximum ground level concentration from a new or modified source will be greater than or equal to eighty per cent, but less than one hundred per cent of the maximum acceptable ground level concentration for an air contaminant, the director may establish terms and conditions in the permit to install for the air contaminant source that will require the owner or operator of the air contaminant source to maintain emissions of that air contaminant commensurate with the modeled level, which shall be expressed as allowable emissions per day. In

order to calculate the allowable emissions per day, the director shall multiply the hourly emission rate modeled under division (F)(4)(b) of this section to determine the ground level concentration by the operating schedule that has been identified in the permit to install application. Terms and conditions imposed under division (F)(4)(c) of this section are not federally enforceable requirements and, if included in a Title V permit, shall be placed in the portion of the permit that is only enforceable by the state.

(d) If the modeling conducted under division (F)(4)(b) of this section with respect to an application for a permit to install demonstrates that the maximum ground level concentration from a new or modified source will be less than eighty per cent of the maximum acceptable ground level concentration, the owner or operator of the source annually shall report to the director, on a form prescribed by the director, whether operations of the source are consistent with the information regarding the operations that was used to conduct the modeling with regard to the permit to install application. The annual report to the director shall be in lieu of an emission limit or other permit terms and conditions imposed pursuant to division (F)(4) of this section. The director may consider any significant departure from the operations of the source described in the permit to install application that results in greater emissions than the emissions rate modeled to determine the ground level concentration as a modification and require the owner or operator to submit a permit to install application for the increased emissions. The requirements established in division (F)(4)(d) of this section are not federally enforceable requirements and, if included in a Title V permit, shall be placed in the portion of the permit that is only enforceable by the state.

(e) Division (F)(4) of this section and the document entitled "Review of New Sources of Air Toxics Emissions, Option A" shall not be included in the state implementation plan under section 110 of the federal Clean Air Act and do not apply to an air contaminant source that is subject to a maximum achievable control technology standard or residual risk standard under section 112 of the federal Clean Air Act, to a particular air contaminant identified under 40 C.F.R. 51.166, division (b)(23), for which the director has determined that the owner or operator of the source is required to install best available control technology for that particular air contaminant, or to a particular air contaminant for which the director has determined that the source is required to meet the lowest achievable emission rate, as defined in 40 C.F.R. part 51, Appendix S, for that particular air contaminant.

(f)

(i) Division (F)(4) of this section and the document entitled "Review of New Sources of Air Toxics Emissions, Option A" do not apply to parking lots, storage piles, storage tanks, transfer operations, grain silos, grain dryers, emergency generators, gasoline dispensing operations, air contaminant sources that emit air contaminants solely from the combustion of fossil fuels, or the emission of wood dust, sand, glass dust, coal dust, silica, and grain dust.

(ii) Notwithstanding division (F)(4)(f)(i) of this section, the director may require an individual air contaminant source that is within one of the source categories identified in division (F)(4)(f)(i) of this section to submit information in an application for a permit to install a new or modified source in order to determine the source's conformity to the document if the director has information to conclude that the particular new or modified source will potentially cause an increase in ground level concentration beyond the facility's boundary that exceeds the maximum acceptable ground level concentration as set forth in the document.

(iii) The director may adopt rules in accordance with Chapter 119. of the Revised Code that are consistent with the purposes of this chapter and that add to or delete from the source category exemptions established in division (F)(4)(f)(i) of this section.

- Additional information regarding the Air Toxics program, including the scientific evidence used in promulgating OAC rule 3745-114-01, can be found on the [Air Toxics Webpage](#).

Ohio EPA is also currently working on revisions to [Engineering Guide 69](#), "Guidance on Air Dispersion Modeling of Emission Sources, and [Draft Engineering Guide 70](#), "Guidance on Evaluating Emissions of Toxic Air Pollution Compounds when Processing Permit-to-Install (PTI) Applications," as a result of SB265. Watch Ohio EPA's Division of Air Pollution Control "[What's New](#)" web page for updates on these revisions.